

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2006-0321-PST-E TCEQ ID: RN101542512 CASE NO.: 28930
RESPONDENT NAME: PLAIN-O-GAS, INC. DBA FINA

ORDER TYPE:		
<input type="checkbox"/> 660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

BASE 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

SITE WHERE VIOLATION(S) OCCURRED: 1421 North Central Expressway, Plano, Collin 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 3, 2007. No comments were received.

CONTACTS AND MAILING LIST:
 TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
 TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5825
 TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901
 Respondent: Mr. John Kamali, President, Plain-O-Gas, Inc., 8209 Park Lane, Dallas, Texas 75231
 Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: November 15, 2005</p> <p>Date of NOE Relating to this Case: March 13, 2006</p> <p>Background Facts: The EDPRP was filed July 10, 2006. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According the return receipt "green card," the Respondent received notice of the EDPRP on July 12, 2006, as evidenced by the signature on the card. The Respondent failed to respond to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The EDFARP was filed November 10, 2006. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According the return receipt "green card," the Respondent received notice of the EDFARP on November 15, 2006, as evidenced by the signature on the card. The Respondent failed to respond to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The EDSARP was filed July 2, 2007. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According the return receipt "green card," the Respondent received notice of the EDSARP on July 3, 2007, as evidenced by the signature on the card. The Respondent failed to respond to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <p>1. Failed to maintain the UST records [30 TEX. ADMIN. CODE § 334.10(b)].</p>	<p>Total Assessed: \$23,650</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$23,650</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>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>Corrective Measures:</p> <p>The Executive Director recognizes that the Respondent has taken the following corrective measures:</p> <ol style="list-style-type: none"> On February 23, 2006, the TCEQ Dallas-Forth Worth Regional Office received a copy of current financial assurance coverage for all USTs at the station. On February 26, 2006, the TCEQ Dallas-Fort Worth Regional Office received a copy of the monthly inventory control records. On February 25, 2006, documentation was received by the TCEQ Dallas-Fort Worth Regional Office verifying that all current employees received in-house Stage II vapor recovery training. On February 26, 2006, the TCEQ Dallas-Fort Worth Regional Office received documentation verifying that the Station began conducting monthly inspections of the Stage II Vapor Recovery System. On March 21, 2006, the TCEQ Dallas-Fort Worth Regional Office received documentation verifying that the Station successfully conducted the required annual testing of the Stage II equipment. On March 6, 2006, the TCEQ Dallas-Fort Worth Regional Office received documentation indicating that the Station properly installed and tested loosening/over tightening devices and repaired the hoses and face plates. On March 21, 2006, the TCEQ Dallas-Fort Worth Regional Office received verification the pressurized product lines and line leak detectors were successfully performance tested. <p>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately upon the effective date of</p>

Failed to conduct daily and monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(2) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Failed to provide Stage II in-house training to all current employees to make each of them aware of the purposes and correct operating procedures of the Stage II equipment [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Failed to have a current copy of the California Air Resources Board ("CARB") Executive Order for the Stage II vapor recovery system, and failed to have Stage II vapor recovery system maintenance records available for review by TCEQ personnel [30 TEX. ADMIN. CODE § 115.246(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Failed to maintain the Stage II Vapor Recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system [30 TEX. ADMIN. CODE § 115.242(3)(A), (3)(L), and (9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Failed to have the corrosion protection system inspected and tested at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].

Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contains regulated substances, including tanks, piping, and other ancillary equipment; failed to conduct proper release detection on the piping associated with the UST system; and failed to conduct the annual line leak detector test for all line leak detectors every twelve months [30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(2), and (b)(2)(A)(i)(III), and TEX. WATER CODE § 26.3475(a) and (c)(1)].

Failed to submit a true and accurate UST Registration and Self-Certification Form to the TCEQ [30 TEX. ADMIN. CODE § 334.8(c)(4)(B)].

this Order. The Respondent may apply for a new delivery certificate only after the Respondent complies with the terms of this Order.

The Respondent shall undertake the following technical requirements:

1. Immediately, take the following steps to shut down operations of the non-compliant UST systems at the Facility:

- a. Cease dispensing fuel from the USTs;
- b. Cease receiving deliveries of regulated substances into the USTs;
- c. Padlock the dispensers;
- d. Empty the USTs of all regulated substances; and
- e. Temporarily remove the UST system from service.

2. Within 10 days, send its UST delivery certificate to TCEQ.

3. Within 15 days, submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 2.

4. Prior to resuming service:

- a. Conduct daily inspections of the Stage II Vapor Recovery System;
- b. Maintain all required UST records;
- c. Maintain a copy of the CARB Executive Order and all records, including maintenance records, for the Stage II vapor recovery system, and make those records readily available for review by TCEQ personnel;
- d. Post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II Vapor Recovery System;
- e. Conduct triennial testing of the corrosion protection system;
- f. Install or implement a release detection method for all USTs at the Station;
- g. Submit an accurate registration and self-certification form to indicate the correct ownership of the UST system; and
- h. Apply with the Commission for a new delivery certificate.

5. Within 10 days of resuming service, submit written certification demonstrating compliance.

6. Upon Obtaining a new Delivery Certificate, post it in a location where it is visible at all times.



05-30-07 cpw
Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 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) Enf. 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 Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)

Notes

Economic Benefit Subtotal 6

Total EB Amounts	\$2,544	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$6,250	

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 Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 27-Mar-2006

05-30-07:dpw

Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

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>	2	10%
	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 disclosed)</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%
<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) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs for same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 27-Mar-2006

05-30-07.gpw

Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code § 334.10(b)

Secondary Rule Cite(s)

Violation Description

Failed to maintain the UST records as required. Specifically, there were no records pertaining to financial assurance, monthly inventory control records, release detection records, annual line pressure and line leak detector tests, and corrosion protection triennial certification.

Base Penalty

\$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent

10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment

-\$9,000

Base Penalty Subtotal

\$1,000

Violation Events

Number of Violation Events

1

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

Violation Base Penalty

\$1,000

One single event is recommended based on the November 15, 2005 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

\$16

Violation Final Penalty Total

\$1,100

This violation Final Assessed Penalty (adjusted for limits)

\$1,100

05-30-07.gpw

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
 Case ID No. 28930
 Reg. Ent. Reference No. RN101542512
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest	5.0	Years of Depreciation	15
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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	\$250	15-Nov-2005	17-Dec-2006	1.1	\$14	n/a	\$14
Inventory Control Records	\$100	15-Nov-2005	26-Feb-2006	0.3	\$1	n/a	\$1
Copy of Financial Assurance	\$100	15-Nov-2005	23-Feb-2006	0.3	\$1	n/a	\$1
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain UST records. The date required is the investigation date and final date is the estimated date of compliance to submit outstanding records and final date is also the compliance date in which financial assurance records and inventory control records were submitted to the regional office.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$450**

TOTAL **\$16**

Screening Date 27-Mar-2006 05:30-07.gpw Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.244(2) and (3)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct daily and monthly inspections of the Stage II Vapor Recovery System.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Failure to conduct daily and monthly inspections of the Stage II system can result in the exposure of a significant amount of contaminants which may not exceed levels that are protective of human health and the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$2,000

Two quarterly events are recommended from the November 15, 2005 investigation date to the March 27, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$177

Violation Final Penalty Total \$2,200

This violation Final Assessed Penalty (adjusted for limits) \$2,200

05-30-07 apw

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
 Case ID No. 28930
 Reg. Ent. Reference No. RN101542512
 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
Daily Inspections	\$500	15-Nov-2005	16-Dec-2006	1.1	\$27	n/a	\$27
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 expense for an employee to conduct daily inspections of the Stage II system. The date required based on the investigation date and the final date is the estimated compliance date.

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
Monthly Inspections	\$500	15-Nov-2005	27-Feb-2006	0.3	\$7	\$142	\$150
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: Estimated expense for an employee to conduct monthly inspections of the Stage II system. The date required based on the investigation date and the final date is the compliance date.

Approx. Cost of Compliance **\$1,000**

TOTAL **\$177**

Screening Date 27-Mar-2006

05-30-07.gpw

Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

3

Primary Rule Cite(s)

30 Tex. Admin. Code § 115.248(1)

Secondary Rule Cite(s)

Tex. Health & Safety Code §.382.085(b)

Violation Description

Failed to provide the Stage II in-house training to each/all current employee(s) that would provide awareness of the purpose and correct operation of the Stage II equipment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to ensure training is received in the operation and maintenance of the Stage II Vapor Recovery System can result in the exposure of a significant amount of pollutants which may not exceed levels that are protective of human health and the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$2,000

Two quarterly events are recommended from the November 15, 2005 investigation date to the March 27, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$7

Violation Final Penalty Total \$2,200

This violation Final Assessed Penalty (adjusted for limits) \$2,200

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
 Case ID No. 28930
 Reg. Ent. Reference No. RN101542512
 Media [Statute] Petroleum Storage Tank
 Violation No. 3

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	\$500	15-Nov-2005	25-Feb-2006	0.3	\$7	n/a	\$7
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 of training by a certified Stage II Station representative. The date required is the investigation date and the final date is the compliance date.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date 27-Mar-2006

05-30-07.gpw

Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

4

Primary Rule Cite(s)

30 Tex. Admin. Code § 115.246(1) and (3)

Secondary Rule Cite(s)

Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to have a current copy of the CARB Executive Order for the Stage II vapor recovery system. Specifically, it was documented that Plain-O-Gas did not have a copy of the current CARB Executive Order on site. Failed to provide and make available for review, the maintenance records for the Stage II vapor recovery system. Specifically, it was documented that Plain-O-Gas failed to maintain the maintenance records for the Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$1,000

One single event is recommended based on the November 15, 2005 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$1,100

This violation Final Assessed Penalty (adjusted for limits) \$1,100

05-30-07 cpw

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
 Case ID No. 28930
 Reg. Ent. Reference No. RN101542512
 Media [Statute] Petroleum Storage Tank
 Violation No. 4

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				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	\$200	15-Nov-2005	17-Dec-2006	1.1	\$11	n/a	\$11
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 maintain records as required. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 27-Mar-2006

05-30-07.gpw

Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

5

Primary Rule Cite(s)

30 Tex. Admin. Code § 115.245(2)

Secondary Rule Cite(s)

Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the last successful annual Stage II vapor recovery test was conducted on April 8, 2003.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to verify proper operation of the Stage II equipment could result in the release of a significant amount of gasoline vapors which would exceed levels that are protective of human health or environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$5,000

Two annual events are recommended from the first annual test due date of April 8, 2004 to the March 21, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,100

Violation Final Penalty Total \$5,500

This violation Final Assessed Penalty (adjusted for limits) \$5,500

05-30-07.spw

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
 Case ID No. 28930
 Reg. Ent. Reference No. RN101542512
 Media [Statute] Petroleum Storage Tank
 Violation No. 5

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]	\$1,000	08-Apr-2004	21-Mar-2006	2.0	\$100	\$1,000	\$1,100
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs Estimated cost for annual testing to verify proper operation of the Stage II equipment. The date required is the date first annual test was due and final date is the compliance date.							

Approx. Cost of Compliance

TOTAL

Screening Date 27-Mar-2006

05-30-07.gpw

Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

6

Primary Rule Cite(s)

30 Tex. Admin. Code § 115.242(3)(A), (3)(L) and (9)

Secondary Rule Cite(s)

Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system, including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, Plain-O-Gas failed to have devices installed to prevent loosening or over tightening of the phase I product adaptor, and the hoses on dispensers 4 and 11 were touching the ground more than the six inch requirement. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to maintain the Stage II vapor recovery system in proper operating condition could result in the release of significant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$2,000

Two quarterly events are recommended from the November 15, 2005 investigation date to the March 27, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$2,200

This violation Final Assessed Penalty (adjusted for limits) \$2,200

05-30-07 cpw

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
 Case ID No. 28930
 Reg. Ent. Reference No. RN101542512
 Media [Statute] Petroleum Storage Tank
 Violation No. 6

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 Repairs	\$250	15-Nov-2005	06-Mar-2006	0.3	\$0	\$5	\$5
Buildings				0.0	\$0	\$0	\$0
Instructions on Dispensers	\$100	15-Nov-2005	17-Dec-2006	1.1	\$0	\$7	\$8
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 for equipment repairs to the hoses and face plates of the dispensers. The date required is the investigation date and the final date is the compliance date. Estimated cost to post operating instructions on the dispensers. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$350**

TOTAL **\$13**

Screening Date 27-Mar-2006

05-30-07.gpw
Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 7

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(4)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(d)

Violation Description Failed to have the corrosion protection system inspected and tested at least once every three years. Specifically, Plain-O-Gas did not conduct the triennial test.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

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

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$2,500

One single event is recommended for the period preceding the November 15, 2005 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,150

Violation Final Penalty Total \$2,750

This violation Final Assessed Penalty (adjusted for limits) \$2,750

05-30-07.gpw

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
Case ID No. 28930

Reg. Ent. Reference No. RN101542512
Media [Statute] Petroleum Storage Tank
Violation No. 7

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				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)	\$1,000	15-Nov-2002	15-Nov-2005	3.0	\$150	\$1,000	\$1,150

Notes for AVOIDED costs

Avoided cost for completing the triennial test. The date required is three years before the investigation date and the final date is the investigation date.

Approx. Cost of Compliance **\$1,000**

TOTAL \$1,150

Screening Date 27-Mar-2006

05-30-07.gpw

Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

8

Primary Rule Cite(s)

30 Tex. Admin. Code § 334.50(a)(1)(A), (b)(2), and (b)(2)(A)(i)(III)

Secondary Rule Cite(s)

Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including tanks, piping, and other ancillary equipment. Specifically, the supreme and diesel tanks did not have probes in them to enable the automatic tank gauge system to conduct a test and record a reading, nor was the Station was conducting an alternative method of release detection. Failed to conduct proper release detection for the piping associated with the UST system. Specifically, Plain-O-Gas failed to conduct the annual pipe tightness test on all pressurized product lines. Failed to test the line leak detectors at least once per year for performance and operational reliability.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failing to monitor the UST system for releases could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$5,000

Two quarterly events are recommended from the November 15, 2005 investigation date to the March 27, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$5,500

This violation Final Assessed Penalty (adjusted for limits) \$5,500

05.30.07 cpw

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
 Case ID No. 28930
 Reg. Ent. Reference No. RN101542512
 Media [Statute] Petroleum Storage Tank
 Violation No. 8

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							
Testing	\$1,000	15-Nov-2005	21-Mar-2006	0.3	\$1	\$23	\$24
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$250	15-Nov-2005	17-Dec-2006	1.1	\$1	\$18	\$19
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. The date required is the investigation date and the final date is the estimated date of compliance. Estimated cost to conduct annual line leak detector and piping tightness tests. The date required is the investigation date and the final date is the date the regional office received compliance information.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 27-Mar-2006

05-30-07.gpw

Docket No. 2006-0321-PST-E

PCW

Respondent Plain-O-Gas, Inc. dba Fina

Policy Revision 2 (September 2002)

Case ID No. 28930

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101542512

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

9

Primary Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(4)(B)

Secondary Rule Cite(s)

Violation Description

Failed to submit a true and accurate UST registration and self-certification form to the TCEQ. Specifically, Plain-O-Gas does not own the USTs at the Station, but it certified ownership on the TCEQ UST registration and self-certification form submitted May 17, 2004.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Harm

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

<i>mark only one use a small x</i>	<i>daily</i>	
	<i>monthly</i>	
	<i>quarterly</i>	
	<i>semiannual</i>	
	<i>annual</i>	
	<i>single event</i>	X

Violation Base Penalty \$1,000

One single event is recommended based on the November 15, 2005 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$27

Violation Final Penalty Total \$1,100

This violation Final Assessed Penalty (adjusted for limits) \$1,100

Economic Benefit Worksheet

Respondent Plain-O-Gas, Inc. dba Fina
 Case ID No. 28930
 Reg. Ent. Reference No. RN101542512
 Media [Statute] Petroleum Storage Tank
 Violation No. 9

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				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	\$500	15-Nov-2005	17-Dec-2006	1.1	\$27	n/a	\$27
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to submit a true and accurate UST registration and self-certification form to the TCEQ. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN601276454 PLAIN-O-GAS INC	Classification: AVERAGE	Rating: 0.75
Regulated Entity:	RN101542512 FINA	Classification: AVERAGE	Site Rating: 0.75
Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	40047
Location:	1421 N CENTRAL EXPY, PLANO, TX, 75075	Rating Date: September 01 05	Repeat Violator: NO
CEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 21, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 21, 2001 to March 21, 2006		

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

Name: Judy Kluge. Phone: (817) 588-5825

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 03/13/2006 (456089)
- 2 12/07/2005 (436924)
- 3 05/09/2002 (542)
- 4 08/25/2005 (406958)
- 5 10/22/2004 (392989)

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

Date: 10/22/2004 (392989)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]

30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to provide acceptable financial assurance.

Date: 12/09/2005 (436924)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]

Description: Failure to provide documentation pertaining to PST records for this UST system.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct the monthly inspections of the Stage II vapor recovery system.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)[G]

Description: Failure to provide the Stage II in-house training to each/all current employee(s) that would provide awareness of the purpose and correct operation of the Stage II

equipment. Classification: Moderate

Self Report? NO
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)
 Description: Failure to maintain the maintenance records for the Stage II vapor recovery system.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
 Description: Failure to have a current copy of the CARB Executive Order (G-70-150-AE) for this Stage II Vapor Recovery system.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)(G)
 Description: Failure to conduct a successful Annual Stage II Vapor Recovery testing that was due by April 8, 2004 and April 8, 2005.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)(G)
 Description: Failure to have the Stage II operating instructions posted at the dispensers.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(L)
 Description: Failure to prevent six inches or more of the Stage II hoses on dispenser 4 and 11 from touching the ground surface in accordance to the Gilbarco (G-70-150-AE) CARB Executive Order.

- 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
PLAIN-O-GAS, INC.
DBA FINA;
RN101542512

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2006-0321-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Second Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting entry of an Order requiring the respondent, Plain-O-Gas, Inc. dba Fina ("Plain-O-Gas"), to shutdown or remove from service the four Underground Storage Tanks ("USTs") at the Fina station located at 1421 North Central Expressway, Plano, Collin County, Texas.

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

FINDINGS OF FACT

1. Plain-O-Gas operates a convenience store with retail sales of gasoline, located at 1421 North Central Expressway, Plano, Collin County, Texas (the "Station").
2. Plain-O-Gas's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Plain-O-Gas's USTs contain a regulated petroleum substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. On November 15, 2005, an investigator from the TCEQ Dallas-Fort Worth Regional Office documented that Plain-O-Gas:
 - a. Failed to maintain the UST records as required. Specifically, there were no records pertaining to financial assurance, monthly inventory control records, release detection records, annual line pressure and line leak detector tests, and corrosion protection triennial certification;
 - b. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system;
 - c. Failed to provide Stage II in-house training to all current employees to make each of them aware of the purposes and correct operating procedures of the Stage II equipment;
 - d. Failed to have a current copy of the California Air Resources Board ("CARB") Executive Order for the Stage II vapor recovery system, and failed to have the Stage II vapor recovery system maintenance records available for review by TCEQ personnel;
 - e. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the last successful annual Stage II vapor recovery test was conducted on April 8, 2003;
 - f. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, Plain-O-Gas failed to have devices installed to prevent loosening or over tightening of the phase I product adaptor, the hoses on dispensers 4 and 11 were touching the ground more than the six inch requirement, and operating instructions were not posted conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system;
 - g. Failed to have the corrosion protection system inspected and tested at least once every three years;
 - h. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contains regulated substances, including tanks, piping, and other ancillary equipment; failed to conduct proper release detection for

the piping associated with the UST system; and failed to conduct the annual line leak detector test for all line leak detectors every twelve months. Specifically, the supreme and diesel tanks did not contain probes to enable the automatic test gauge system to conduct a test and record a reading, nor was the Station conducting statistical inventory control as an alternative method of release detection; the annual pipe tightness test on all pressurized product lines were not tested every twelve months; and the annual line leak detector tests for all line leak detectors were not conducted every twelve months; and

- i. Failed to submit a true and accurate UST registration and self-certification form to the TCEQ. Specifically, Plain-O-Gas operates but does not own the USTs at the Station, but it certified ownership on the TCEQ UST registration and self-certification form that Plain-O-Gas submitted to the Commission on May 17, 2004.
4. By letter dated March 13, 2006; the TCEQ Dallas-Fort Worth Regional Office provided Plain-O-Gas with notice of the violations and the TCEQ's authority to shut down and remove from service UST systems not in compliance with release detection, spill and/or overfill prevention, and corrosion protection regulations if the violations were not corrected.
5. Plain-O-Gas received notice of the violations on or about March 18, 2006.
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 Plain-O-Gas, Inc. dba Fina" (the "EDPRP") in the TCEQ Chief Clerk's office on July 10, 2006.
7. By letter dated July 10, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Plain-O-Gas with notice of the EDPRP. According to the return receipt "green card," Plain-O-Gas received notice of the EDPRP on or about July 12, 2006, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Plain-O-Gas received notice of the EDPRP, provided by the Executive Director. Plain-O-Gas failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Plain-O-Gas, Inc. dba Fina" (the "EDFARP") in the TCEQ Chief Clerk's office on November 10, 2006.

10. By letter dated November 10, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Plain-O-Gas with notice of the EDFARP. According to the return receipt "green card," Plain-O-Gas received notice of the EDFARP on or about November 15, 2006, as evidenced by the signature on the card.
11. More than 20 days have elapsed since Plain-O-Gas received notice of the EDFARP, provided by the Executive Director. Plain-O-Gas failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
12. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Plain-O-Gas, Inc. dba Fina" (the "EDSARP") in the TCEQ Chief Clerk's office on July 2, 2007.
13. By letter dated July 2, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Plain-O-Gas with notice of the EDSARP. According to the return receipt "green card," Plain-O-Gas received notice of the EDSARP on or about July 3, 2007, as evidenced by the signature on the card.
14. More than 20 days have elapsed since Plain-O-Gas received notice of the EDSARP, provided by the Executive Director. Plain-O-Gas failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.
15. By letters dated March 13, 2006, October 5, 2006, and March 1, 2007, TCEQ provided Plain-O-Gas with notice of TCEQ's intent to order the UST systems at the Station shut down and removed from service if Plain-O-Gas failed to correct the release detection and corrosion protection violations within 30 days after Plain-O-Gas's receipt of the notice.
16. The Executive Director recognizes that Plain-O-Gas has undertaken the following corrective measures in response to this enforcement action:
 - a. On February 23, 2006, the TCEQ Dallas-Fort Worth Regional Office received a copy of current financial assurance coverage for all USTs at the Station;
 - b. On February 26, 2006, the TCEQ Dallas-Fort Worth Regional Office received a copy of the monthly inventory control records;
 - c. On February 25, 2006, documentation was received by the TCEQ Dallas-Fort Worth Regional Office verifying that all current employees received in-house Stage II vapor recovery training;

- d. On February 27, 2006, the TCEQ Dallas-Fort Worth Regional Office received documentation verifying that the Station began conducting monthly inspections of the Stage II vapor recovery system.
 - e. On March 21, 2006, the TCEQ Dallas-Fort Worth Regional Office received documentation verifying that the Station successfully conducted the required annual testing of the Stage II equipment;
 - f. On March 6, 2006, the TCEQ Dallas-Fort Worth Regional Office received documentation indicating that the Station properly installed and tested loosening/over-tightening devices and repaired the hoses and face plates; and
 - g. On March 21, 2006, the TCEQ Dallas-Fort Worth Regional Office received verification the pressurized product lines and line leak detectors were successfully performance tested.
17. As of the date of entry of this Order, Plain-O-Gas has not corrected the release detection and corrosion protection violations noted during the November 15, 2005, investigation.
18. The UST systems at the Station do not have release detection as required by § 334.50(a)(1)(A), (b)(2), and (b)(2)(A)(i)(III), and TEX. WATER CODE § 26.3475(a) and (c)(1), and do not have corrosion protection as required by 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), and may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

- 1. Plain-O-Gas's USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
- 2. As evidenced by Finding of Fact Number 3.a., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 334.10(b), by failing to maintain the UST records as required.
- 3. As evidenced by Finding of Fact Number 3.b., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 115.244(2) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to conduct daily and monthly inspections of the Stage II vapor recovery system.

4. As evidenced by Finding of Fact Number 3.c., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to provide Stage II in-house training to all current employees to make each of them aware of the purposes and correct operating procedures of the Stage II equipment.
5. As evidenced by Finding of Fact Number 3.d., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 115.246(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to have a current copy of the California Air Resources Board ("CARB") Executive Order for the Stage II vapor recovery system, and failing to have the Stage II vapor recovery system maintenance records available for review by TCEQ personnel.
6. As evidenced by Finding of Fact Number 3.e., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to verify proper operation of the Stage II equipment at least once every 12 months.
7. As evidenced by Finding of Fact Number 3.f., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 115.242(3)(A), (3)(L), and (9) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system.
8. As evidenced by Finding of Fact Number 3.g., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), by failing to have the corrosion protection system inspected and tested at least once every three years.
9. As evidenced by Finding of Fact Number 3.h., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(2), and (b)(2)(A)(i)(III), and TEX. WATER CODE § 26.3475(a) and (c)(1), by failing to provide a method of release detection capable of detecting a release from any portion of the UST system which contains regulated substances, including tanks, piping, and other ancillary equipment; failing to conduct proper release detection for the piping associated with the UST system; and failing to conduct the annual line leak detector test for all line leak detectors every twelve months.
10. As evidenced by Finding of Fact Number 3.i., Plain-O-Gas violated 30 TEX. ADMIN. CODE § 334.8(c)(4)(B), by failing to submit a true and accurate UST registration and self-certification form to the TCEQ.
11. As evidenced by Finding of Fact Nos. 6 and 7, 9 and 10, and 12 and 13, the Executive Director timely served Plain-O-Gas with proper notice of the EDPRP, the EDFARP, and the

EDSARP, respectively, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

12. As evidenced by Finding of Fact Nos. 8, 11, and 14, Plain-O-Gas failed to file a timely answer to the EDPRP, the EDFARP, and the EDSARP, respectively, 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 Plain-O-Gas and assess the penalty recommended by the Executive Director.
13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Plain-O-Gas for violations of the Texas Water Code and the Texas Health & 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.
14. An administrative penalty in the amount of twenty-three thousand six hundred fifty dollars (\$23,650.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
15. As evidenced by Finding of Fact No. 17, Plain-O-Gas failed to correct documented violations of Commission requirements regarding release detection and corrosion protection within 30 days after Plain-O-Gas received notice of the violations and notice of the Executive Director's intent to shut down the Station.
16. TEX. WATER CODE § 26.3475(e) authorizes the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and/or overflow protection for tanks, and/or corrosion protection for tanks and piping.
17. 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.
18. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Plain-O-Gas's UST delivery certificate if the Commission finds that good cause exists.
19. Good cause for revocation of Plain-O-Gas's UST delivery certificate exists as justified by Findings of Fact Nos. 6 through 14 and Conclusions of Law Nos. 11 and 12.
20. As evidenced by Finding of Fact Number 18, current conditions at the Station constitute an imminent peril to public health, safety and welfare.

ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Plain-O-Gas is assessed an administrative penalty in the amount of twenty-three thousand six hundred fifty dollars (\$23,650.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Plain-O-Gas'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: Plain-O-Gas, Inc. dba Fina; Docket No. 2006-0321-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. Immediately upon the effective date of this Order, Plain-O-Gas shall take the following steps to shut down operations of the non-compliant UST systems at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
3. Plain-O-Gas's UST delivery certificate is revoked immediately upon the effective date of this Order. Plain-O-Gas may submit an application for a new delivery certificate only after Plain-O-Gas has complied with all of the requirements of this Order.

4. Within 10 days after the effective date of this Order, Plain-O-Gas shall send its UST delivery certificate to:

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

5. Within 15 days after the effective date of this Order, Plain-O-Gas shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 3. Plain-O-Gas shall submit the report to:

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

and

Sid Slocum, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

6. If Plain-O-Gas elects to permanently remove from service any UST systems at the Station, Plain-O-Gas shall permanently remove those UST systems in accordance with 30 TEX. ADMIN. CODE § 334.55, and shall submit to the Commission a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55. Plain-O-Gas shall submit the written report to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

7. Plain-O-Gas's UST systems shall remain out of service as directed by Ordering Provision Nos. 1.a. through 1.e. until such time as Plain-O-Gas demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Finding of Fact Nos. 3.a. through 3.i. and Conclusion of Law Nos. 2 through 10 as listed herein. Prior to resuming service of the USTs, Plain-O-Gas shall undertake the following technical requirements:
 - a. Begin conducting daily inspections of the Stage II vapor recovery system in accordance with 30 TEX. ADMIN. CODE § 115.244;
 - b. Begin maintaining all required UST records in accordance with 30 TEX. ADMIN. CODE § 334.10(b);
 - c. Begin maintaining a copy of the CARB Executive Order and all records, including maintenance records, for the Stage II vapor recovery system, and make those records readily available for review by TCEQ personnel, pursuant to 30 TEX. ADMIN. CODE § 115.246;
 - d. Post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II Vapor Recovery System, in accordance with 30 TEX. ADMIN. CODE § 115.242;
 - e. Conduct triennial testing of the corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - f. Install or implement a release detection method for all USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - g. Submit an accurate registration and self-certification form to indicate the correct ownership of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.8.
 - h. Apply with the Commission for a new delivery certificate.
8. Within 10 days of resuming service, Plain-O-Gas shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision nos. 7.a. through 7.h.

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

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

The certification shall be submitted to:

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

with copy to:

Sid Slocum, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

9. Upon obtaining a new delivery certificate, Plain-O-Gas shall post the delivery certificate in a location where the document is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
10. All relief not expressly granted in this Order is denied.
11. The provisions of this Order shall apply to and be binding upon Plain-O-Gas, and Plain-O-Gas is ordered to give notice of this Order to personnel who maintain day to day control of the UST systems at the Station.
12. 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 Plain-O-Gas if the Executive Director determines that Plain-O-Gas is noncompliant with or in violation of any of the terms and conditions set forth in this Order.

13. This Order shall terminate five years from its effective date or when Plain-O-Gas demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein.
14. 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(a)(3).

Plain-O-Gas, Inc. dba Fina
Docket No. 2006-0321-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LENA ROBERTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Lena Roberts. 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 Plain-O-Gas, Inc. dba Fina” (the “EDPRP”) was filed with the Office of the Chief Clerk on July 10, 2006.

The EDPRP was mailed to Plain-O-Gas at its last known address on July 10, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Plain-O-Gas received notice of the EDPRP on July 12, 2006, as evidenced by the signature on the card.

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Plain-O-Gas, Inc. dba Fina” (the “EDFARP”) was filed in the TCEQ Chief Clerk’s office on November 10, 2006.

The EDFARP was mailed to Plain-O-Gas at its last known address on November 10, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Plain-O-Gas received notice of the EDFARP on or about November 15, 2006, as evidenced by the signature on the card.

More than 20 days have elapsed since Plain-O-Gas received notice of the EDFARP. Plain-O-Gas failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended Report and Petition Recommending that the Texas

Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Plain-O-Gas, Inc. dba Fina" (the "EDSARP") was filed in the TCEQ Chief Clerk's office on July 2, 2007.

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More than 20 days have elapsed since Plain-O-Gas received notice of the EDSARP. Plain-O-Gas failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.

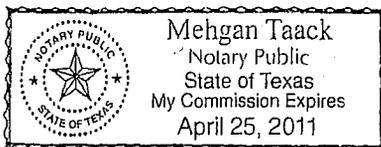
By letters dated March 13, 2006, October 5, 2006, and March 1, 2007, TCEQ provided Plain-O-Gas with notice of TCEQ's intent to order the UST systems at the Station shut down and removed from service if Plain-O-Gas failed to correct the release detection and corrosion protection violations within 30 days after Plain-O-Gas's receipt of the notice.

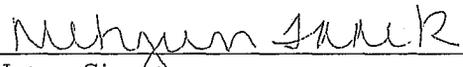
As of the date of this affidavit, I am not aware of any evidence that indicates that Plain-O-Gas has corrected the violations noted during the November 15, 2005, investigation."


Lena Roberts, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Lena Roberts, 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 30th day of October, A.D., 2007.




Notary Signature