# EXECUTIVE SUMMARY - ENFORCEMENT MATTER



**DOCKET NO.: 2007-0173-PST-E TCEQ ID: RN101813715 CASE NO.: 32618**
**RESPONDENT NAME: DALE CRAGHEAD DBA COL-TEX STATIONS**

| ORDER TYPE: | | |
|---|---|---|
| _1660 AGREED ORDER | __FINDINGS AGREED ORDER | __FINDINGS ORDER FOLLOWING SOAH HEARING |
| _X FINDINGS DEFAULT ORDER | __SHUTDOWN ORDER | __IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| __AMENDED ORDER | __EMERGENCY ORDER | |
| CASE TYPE: | | |
| __AIR | __MULTI-MEDIA (check all that apply) | __INDUSTRIAL AND HAZARDOUS WASTE |
| __PUBLIC WATER SUPPLY | _X_PETROLEUM STORAGE TANKS | __OCCUPATIONAL CERTIFICATION |
| __WATER QUALITY | __SEWAGE SLUDGE | __UNDERGROUND INJECTION CONTROL |
| __MUNICIPAL SOLID WASTE | __RADIOACTIVE WASTE | __ DRY CLEANER REGISTRATION |

**SITE WHERE VIOLATION(S) OCCURRED:** 502 East 2nd Street, Colorado City, Mitchell County

**TYPE OF OPERATION:** Non-operating convenience store with retail sales of gasoline

**SMALL BUSINESS:** _X_ 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 November 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
**TCEQ Enforcement Coordinator:** Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896
**TCEQ Regional Contact:** Mr. James Beauchamp, Abilene Regional Office, MC R-11, (325) 698-6109
**Respondent:** Mr. Dale Craghead, Col-Tex Stations, P.O. Box 381, Colorado City, Texas 79512-0381
**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

## VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|---|
| **Type of Investigation:**<br><br>___ Complaint<br>___ Routine<br>___ Enforcement Follow-up<br>_X_ Records Review<br><br>**Date of Complaints Relating to this Case:** None<br><br>**Dates of Investigation Relating to this Case:** January 25, 2007; February 8, 2007<br><br>**Date of NOE Relating to this Case:** January 31, 2007<br><br>**Background Facts:** The EDPRP was filed on June 13, 2007. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on June 25, 2007, 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.<br><br>This Facility has not been in operation since February 18, 1997, and thus has no delivery certificate to revoke.<br><br>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.<br><br>**PST:**<br><br>1. Failed to permanently remove from service, no later than 60 days after the statutorily prescribed upgrade implementation date, five USTs for which at least one applicable component was not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].<br><br>2. Failed to pay outstanding UST fees and associated penalties and interest for TCEQ Financial Account No. 0051026U for fiscal years 1999 through 2007 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702]. | **Total Assessed:** $13,125<br><br>**Total Deferred:** $0<br><br>**Total Due to General Revenue:** $13,125<br><br>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<br><br>**Site Compliance History Classification**<br>__ High _X_ Average __ Poor<br><br>**Person Compliance History Classification**<br>__ High _X_ Average __ Poor<br><br>**Major Source:** ___ Yes _X_ No<br><br>**Applicable Penalty Policy:** September 2002 | **Ordering Provisions:**<br><br>The Respondent shall undertake the following technical requirements:<br><br>1. Within 30 days:<br><br>a. Permanently remove the UST system from service; and<br><br>b. Submit payment for all outstanding UST fees and associated penalties and interest.<br><br>2. Within 45 days, submit written certification to demonstrate compliance. |

# Penalty Calculation Worksheet (PCW)

TCEQ

*Policy Revision 2 (September 2002)* — *PCW Revision December 8, 2006*

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 5-Feb-2007 | | | | |
| PCW | 14-Apr-2007 | Screening | 9-Feb-2007 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Dale Craghead dba Col-Tex Stations | | |
| Reg. Ent. Ref. No. | RN101813715 | | |
| Facility/Site Region | 3-Abilene | Major/Minor Source | Minor |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 32618 | No. of Violations | 2 |
| Docket No. | 2007-0173-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Enf. Coordinator | Deana Holland |
| Multi-Media | | EC's Team | EnforcementTeam 7 |
| Admin. Penalty $ Limit Minimum | $0 | Maximum | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** — *Subtotal 1* $12,500

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** — 5% Enhancement — *Subtotals 2, 3, & 7* $625

Notes: Enhancement for one NOV with same or similar violations.

**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 x) |

Notes: The respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $4,390 |
| Approx. Cost of Compliance | $10,000 |

**SUM OF SUBTOTALS 1-7** — *Final Subtotal* $13,125

**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* $13,125

**STATUTORY LIMIT ADJUSTMENT** — *Final Assessed Penalty* $13,125

**DEFERRAL** — Reduction — *Adjustment* $0

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

Notes: This is not an expedited case.

**PAYABLE PENALTY** $13,125

**Screening Date** 9-Feb-2007 **Docket No.** 2007-0173-PST-E **PCW**

**Respondent** Dale Craghead dba Col-Tex Stations *Policy Revision 2 (September 2002)*

**Case ID No.** 32618 *PCW Revision December 8, 2006*

**Reg. Ent. Reference No.** RN101813715

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Deana Holland

## Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

| Component | Number of... | Enter Number Here | Adjust. |
|---|---|---|---|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (*number of counts*) | 0 | 0% |
| Emissions | Chronic excessive emissions events (*number of events*) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*) | 0 | 0% |

| | | *Please Enter Yes or No* | |
|---|---|---|---|
| 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)*** 5%

>> **Repeat Violator (Subtotal 3)**

No ***Adjustment Percentage (Subtotal 3)*** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer ***Adjustment Percentage (Subtotal 7)*** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same or similar violations.

***Total Adjustment Percentage (Subtotals 2, 3, & 7)*** 5%

**Screening Date** 9-Feb-2007 **Docket No.** 2007-0173-PST-E **PCW**

**Respondent** Dale Craghead dba Col-Tex Stations *Policy Revision 2 (September 2002)*

**Case ID No.** 32618 *PCW Revision December 8, 2006*

**Reg. Ent. Reference No.** RN101813715

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Deana Holland

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 334.47(a)(2)

**Violation Description** Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, five USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

**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** 0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** $7,500

$2,500

## Violation Events

Number of Violation Events 5 | 15 Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $12,500

Five monthly events (one per tank) are recommended from the January 25, 2007 investigation date to the February 9, 2007 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $4,390

## Statutory Limit Test

**Violation Final Penalty Total** $13,125

**This violation Final Assessed Penalty (adjusted for limits)** $13,125

# Economic Benefit Worksheet

**Respondent** Dale Craghead dba Col-Tex Stations
**Case ID No.** 32618
**Reg. Ent. Reference No.** RN101813715
**Media** Petroleum Storage Tank
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | 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) | $10,000 | 22-Dec-1998 | 1-Oct-2007 | 8.8 | $4,390 | n/a | $4,390 |

Notes for DELAYED costs: The estimated cost to permanently remove a UST system from service. The Date Required is the date the respondent was required to upgrade the UST system 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: N/A

Approx. Cost of Compliance: $10,000

TOTAL: $4,390

**Screening Date** 9-Feb-2007 **Docket No.** 2007-0173-PST-E **PCW**

**Respondent** Dale Craghead dba Col-Tex Stations *Policy Revision 2 (September 2002)*

**Case ID No.** 32618 *PCW Revision December 8, 2006*

**Reg. Ent. Reference No.** RN101813715

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Deana Holland

**Violation Number** 2

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

**Violation Description** Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Administration Account No. 0051026U for fiscal year 1999 through fiscal year 2007, as documented during a record review conducted on February 8, 2007.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

OR

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

**Percent** 0%

## >>Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent** 0%

Matrix Notes

**Adjustment** $10,000

$0

## Violation Events

Number of Violation Events

Number of violation days

*mark only one with an x*

| | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $0

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

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $0

## Statutory Limit Test

**Violation Final Penalty Total** $0

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

# Economic Benefit Worksheet

**Respondent** Dale Craghead dba Col-Tex Stations
**Case ID No.** 32618
**Reg. Ent. Reference No.** RN101813715
**Media** Petroleum Storage Tank
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description (No commas or $) | 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 | N/A | | | | | | |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Disposal | | | | 0.0 | $0 | $0 | $0 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | $0 | $0 |
| Supplies/equipment | | | | 0.0 | $0 | $0 | $0 |
| Financial Assurance [2] | | | | 0.0 | $0 | $0 | $0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | N/A | | | | | | |

Approx. Cost of Compliance: $0

TOTAL: $0

# Compliance History

| | | | | |
|---|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN600984678 | CRAGHEAD, DALE | Classification: AVERAGE | Rating: 2.00 |
| Regulated Entity: | RN101813715 | COL-TEX STATIONS | Classification: AVERAGE | Site Rating: 2.00 |

ID Number(s):

Location: 502 E 2ND ST, COLORADO CITY, TX, 79512 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 03 - ABILENE

Date Compliance History Prepared: February 07, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 07, 2002 to February 07, 2007

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

Name: Deana Holland Phone: 239-2504

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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 07/13/2006 (486599)
2 01/31/2007 (537977)

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

Date: 07/13/2006 (486599)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
Description: Failure to upgrade tanks to meet all technical standards.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.49[G]
Description: Failure to provide cathodic protection to a steel underground storage tank system.

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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING DALE CRAGHEAD DBA COL-TEX STATIONS; RN101813715** | §<br>§<br>§<br>§<br>§<br>§ | **BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY** |

**DEFAULT ORDER**
**DOCKET NO. 2007-0173-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. 5, 7, and 26, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Dale Craghead dba Col-Tex Stations ("Mr. Craghead").

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

## FINDINGS OF FACT

1. Mr. Craghead owns a non-operating convenience store with retail sales of gasoline located at 502 East 2nd Street, Colorado City, Mitchell County, Texas (the "Facility").

2. Mr. Craghead's five underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Craghead's USTs contain a regulated substance as defined in the rules of the Commission.

3. During an investigation conducted on January 25, 2007, a TCEQ Abilene Regional Office investigator documented that Mr. Craghead failed to permanently remove from service, no later than 60 days after the statutorily prescribed upgrade implementation date, five USTs for which at least one applicable component was not brought into timely compliance with the upgrade requirements.

4. During a record review conducted on February 8, 2007, a TCEQ Central Office investigator documented that Mr. Craghead failed to pay outstanding UST fees and associated penalties and interest for TCEQ Financial Account No. 0051026U for fiscal years 1999 through 2007.

5. Mr. Craghead received notice of the violation in paragraph 3 on or about February 23, 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 Dale Craghead dba Col-Tex Stations" (the "EDPRP") in the TCEQ Chief Clerk's office on June 13, 2007.

7. By letter dated June 13, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Craghead with notice of the EDPRP. According to the return receipt "green card," Mr. Craghead received notice of the EDPRP on June 25, 2007, as evidenced by the signature on the card.

8. More than 20 days have elapsed since Mr. Craghead received notice of the EDPRP, provided by the Executive Director. Mr. Craghead 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, Mr. Craghead is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7, and 26, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3, Mr. Craghead failed to permanently remove from service, no later than 60 days after the statutorily prescribed upgrade implementation date, five USTs for which at least one applicable component was not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).

3. As evidenced by Finding of Fact No. 4, Mr. Craghead failed to pay outstanding UST fees and associated penalties and interest for TCEQ Financial Account No. 0051026U for fiscal years 1999 through 2007, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702.

4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Craghead 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, Mr. Craghead 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 Mr. Craghead 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 Mr. Craghead for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

7. An administrative penalty in the amount of thirteen thousand one hundred twenty-five dollars ($13,125.00) 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. Mr. Craghead is assessed an administrative penalty in the amount of thirteen thousand one hundred twenty-five dollars ($13,125.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Mr. Craghead's 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: Dale Craghead dba Col-Tex Stations; Docket No. 2007-0173-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. Mr. Craghead shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Order, Mr. Craghead shall:

i. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.47; and

ii. Submit payment for all outstanding UST fees and associated penalties and interest for TCEQ Financial Account No. 0051026U for fiscal years 1999 through 2007 to:

Financial Administration Division, Revenues Section
Attn: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

b. Within 45 days after the effective date of this Order, Mr. Craghead shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a.i. and a.ii. 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."

Mr. Craghead shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a.i. and a.ii. to:

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

with a copy to:

James Beauchamp, Water Section Manager
Texas Commission on Environmental Quality
Abilene Regional Office
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. All relief not expressly granted in this Order is denied.

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

5. If Mr. Craghead 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, Mr. Craghead's failure to comply is not a violation of this Order. Mr. Craghead shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Craghead shall notify the Executive Director within seven days after Mr. Craghead becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this 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 Mr. Craghead shall be made in writing to the Executive Director. Extensions are not effective until Mr. Craghead receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. 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 Mr. Craghead if the Executive Director determines that Mr. Craghead has not complied with one or more of the terms or conditions in this Order.

8. 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.

9. 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

_____

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 Dale Craghead dba Col-Tex Stations" (the "EDPRP") was filed with the Office of the Chief Clerk on June 13, 2007.

The EDPRP was mailed to Mr. Craghead at his last known address on June 13, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Craghead received notice of the EDPRP on June 25, 2007, as evidenced by the signature on the card.

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

Lena Roberts, Attorney
Office of Legal Services, Litigation Division
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 8th day of August, A.D., 2007.

Margaret Jackson
Notary Public
State of Texas
My Commission Expires
OCTOBER 06, 2009

Notary Signature