

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0206-PST-E TCEQ ID: RN101869154 CASE NO.: 28452
RESPONDENT NAME: LOWELL JOHNSON DBA CASON COUNRTY STORE

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Highway 11 and Highway 44, Cason, Morris County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 4, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320 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. Mike Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Lowell Johnson, Owner, Cason Country Store, 1802 Laney Drive, Longview, Texas 75605-2486 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: October 22, 2004 and February 16, 2006</p> <p>Dates of NOV/NOE Relating to this Case: October 22, 2004 (NOV); February 16, 2006 (NOE)</p> <p>Background Facts: The EDPRP was filed on March 8, 2007. The green card was signed by the Respondent on March 24, 2007. The Respondent did not file an Answer.</p> <p>PST:</p> <p>1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>2. Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Assurance Account No. 0061676U for fiscal year 2004 [30 TEX. ADMIN. CODE § 334.22 (a) and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$1,050</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$1,050</p> <p>This is a Default Order. The Respondent has not paid any of the assessed penalty but shall be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action:</p> <p>The Executive Director recognizes that the Respondent sold the Facility on or about February 24, 2006.</p>



Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Penalty Calculation Worksheet (PCW)

DATES	Assigned	21-Feb-2006	Screening	24-Feb-2006	EPA Due	
	PCW	15-May-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Lowell Johnson dba Cason Country Store
Reg. Ent. Ref. No.	RN101869154
Facility/Site Region	5-Tyler
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	28452	No. of Violations	2
Docket No.	2006-0206-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$1,000

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 \$50

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

Notes The respondent is not yet in compliance.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$683	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$650	

SUM OF SUBTOTALS 1-7 Final Subtotal \$1,050

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 \$1,050

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$1,050

DEFERRAL 0% Reduction Adjustment \$0

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

Notes No deferral offered for non-expedited case.

PAYABLE PENALTY \$1,050

Screening Date 24-Feb-2006 **Docket No.** 2006-0206-PST-E **PCW**
Respondent Lowell Johnson dba Cason Country Store *Policy Revision 2 (September 2002)*
Case ID No. 28452 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101869154
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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<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) 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%

Respondent Lowell Johnson dba Cason Country Store Policy Revision 2 (September 2002)
 Case ID No. 28452 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101869154

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)

Secondary Rule Cite(s)

Violation Description Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			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 (one per tank) is recommended based on the February 16, 2006 records review.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$683

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Lowell Johnson dba Cason Country Store
Case ID No. 28452
Reg. Ent. Reference No. RN101869154
Media [Statute] Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$650	03-Aug-2003	03-Aug-2004	1.0	\$33	\$650	\$683
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs Estimated cost to provide financial assurance for one petroleum UST (\$650 per tank) for one year prior to August 3, 2004 request for financial assurance documentation.

Approx. Cost of Compliance **\$650**

TOTAL \$683

Respondent Lowell Johnson dba Cason Country Store *Policy Revision 2 (September 2002)*
Case ID No. 28452 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN101869154
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge
Violation Number 2
Primary Rule Cite(s) 30 Tex. Admin. Code § 334.22(a)
Secondary Rule Cite(s) Tex. Water Code § 5.702
Violation Description Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Assurance Account No. 0061676U for fiscal year 2004.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

	daily	
	monthly	
mark only one	quarterly	
use a small x	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

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

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

Economic Benefit Worksheet

Respondent Lowell Johnson dba Cason Country Store

Case ID No. 28452

Reg. Ent. Reference No. RN101869154

Media [Statute] Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime	EB
						Costs	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							

Approx. Cost of Compliance

TOTAL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LOWELL JOHNSON DBA CASON
COUNTRY STORE;
RN101869154

§
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§
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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0206-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 § 5.702 and chs. 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 Lowell Johnson dba Cason Country Store ("Mr. Johnson").

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

FINDINGS OF FACT

1. Mr. Johnson owned and operated a convenience store with retail sales of gasoline located at Highway 11 and Highway 44, Cason, Morris County, Texas (the "Facility").
2. Mr. Johnson's one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Johnson's UST contains a regulated substance as defined in the rules of the Commission.
3. Mr. Johnson was sent a letter from the TCEQ Financial Assurance Unit on August 3, 2004, asking him to submit a copy of his current financial mechanism reflecting coverage no later than September 2, 2004. During record reviews conducted on October 22, 2004 and February 16, 2006, a TCEQ Central Office staff member documented that Mr. Johnson failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST.

4. During a record review conducted on February 16, 2006, a TCEQ Central Office staff member documented that Mr. Johnson failed to pay outstanding UST fees and associated late fees for TCEQ Financial Assurance Account No. 0061676U for fiscal year 2004.
5. Mr. Johnson received notice of the violation in paragraph 2 on or about October 27, 2004 and February 22, 2006.
6. Mr. Johnson received notice of the violation in paragraph 3 on or about March 18, 2006.
7. The Executive Director recognizes that Mr. Johnson sold the Facility on or about February 24, 2006.
8. 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 Lowell Johnson dba Cason Country" (the "EDPRP") in the TCEQ Chief Clerk's office on March 8, 2007.
9. By letter dated March 8, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Johnson with notice of the EDPRP. According to the return receipt "green card", Mr. Johnson received notice of the EDPRP on March 24, 2007, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Mr. Johnson received notice of the EDPRP, provided by the Executive Director. Mr. Johnson 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. Johnson is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 5.702 and chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Johnson failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).

3. As evidenced by Finding of Fact No. 4, Mr. Johnson failed to pay outstanding UST fees and associated late fees for TCEQ Financial Assurance Account No. 0061676U for fiscal year 2004, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702.
4. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director has timely served Mr. Johnson 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. 10, Mr. Johnson has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Johnson 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. Johnson for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) 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. Johnson is assessed an administrative penalty in the amount of one thousand fifty dollars (\$1,050.00) for violations of TEX. WATER CODE chs. 5 and 26 and rules of the TCEQ. The payment of this administrative penalty and Mr. Johnson'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: Lowell Johnson dba Cason Country Store; Docket No. 2006-0206-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. Within 30 days after the effective date of this Order, Mr. Johnson shall submit payment for all outstanding fees, including any associated penalties and interest and with notation, "Lowell Johnson dba Cason Country Store, Account No. 0061676U," 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

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. Johnson. Mr. Johnson 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. Johnson 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. Johnson's failure to comply is not a violation of this Order. Mr. Johnson shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Johnson shall notify the Executive Director within seven days after Mr. Johnson 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. Johnson shall be made in writing to the Executive Director. Extensions are not effective until Mr. Johnson 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. Johnson if the Executive Director determines that Mr. Johnson 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.

Lowell Johnson dba Cason Country Store
Docket No. 2006-0206-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF KARI L. GILBRETH

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Lowell Johnson dba Cason Country Store” (the “EDPRP”) with the Office of the Chief Clerk on March 8, 2007.

I sent the EDPRP to Mr. Johnson at his last known address on March 8, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the returned receipt “green card”, Mr. Johnson received notice of the EDPRP on March 24, 2007, as evidenced by the signature on the card.

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



Kari L. Gilbreth
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Kari L. Gilbreth, 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 14th day of December, A.D., 2007.



Margaret Jackson
Notary Signature