

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2

DOCKET NO.: 2005-0270-PST-E TCEQ ID: RN101563856 CASE NO.: 23827

RESPONDENT NAME: GRAYSON FLYING SERVICE, INC. DBA VOYAGER AIR CENTER

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: 5318 Airport Drive, Denison, Grayson County</p> <p>TYPE OF OPERATION: Flight instruction service</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.</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 July 23, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175 (512) 239-1320 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, MC R-4, (817) 588-5886</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903</p> <p style="margin-left: 20px;">Respondent: Mr. Al Rinehart, Registered Agent, Grayson Flying Service, Inc. dba Voyager Air Center, 452 Refuge Road, Sherman, Texas 75092-5809</p> <p style="margin-left: 20px;">Respondent's Attorney: Mr. Jerry McGowen, Attorney at Law, McGowan Law Office, P.C., 711 North Travis Street, Sherman, Texas 75090-4981</p>		

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 checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: February 27, 2004, June 25, 2004, September 17, 2004 and October 24, 2004</p> <p>Date of NOV(s)/NOE(s) Relating to this Case: March 2, 2004 and July 20, 2004 (NOVs); January 8, 2005 (NOE)</p> <p>Background Facts:</p> <p>An EDP RP, EDFARP and an EDSARP were filed and served on the Respondent. The Respondent received all petitions as indicated by the signatures on the return receipt green cards. The Respondent has not filed an answer.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to investigate and remediate a release from ASTs at the Facility [30 TEX. ADMIN. CODE § 334.74]. Failed to submit a required initial report or correspondence discussing remediation of fuel released at the Facility [30 TEX. ADMIN. CODE § 334.129(a)]. 	<p>Total Assessed: \$22,500</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$22,500</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Respondent no longer owns the property.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision December 10, 2004

DATES	Assigned	10-Jan-2005	Screening	13-Jan-2005	Priority Due	11-Mar-2005	EPA Due	
	PCW	06-Nov-2006						

RESPONDENT/FACILITY INFORMATION	
Respondent	Grayson Flying Service, Inc. dba Voyager Air Center
Reg. Ent. Ref. No.	RN101563856
Additional ID No(s).	Petroleum Storage Tank No. 56530
Facility/Site Region	4-Dallas/Fort Worth <input type="checkbox"/> Major/Minor Source Major Source <input type="checkbox"/>

CASE INFORMATION			
Enf./Case ID No.	23827	No. of Violations	2
Docket No.	2005-0270-PST-E	Order Type	1660 <input type="checkbox"/>
Case Priority	3 <input type="checkbox"/>	Enf. Coordinator	Cheryl Thompson
Media Program(s)	Petroleum Storage Tank <input type="checkbox"/>	EC's Team	Enforcement Team 5 <input type="checkbox"/>
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability No 0% Enhancement **Subtotal 4**

Notes

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

Before NOV NOV to EDPRP/Settlement Offer

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

Notes

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

Total EB Amounts	<input type="text" value="\$87"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,200"/>	

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 Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 13-Jan-2005 **Docket No.** 2005-0270-PST-E **PCW**
Respondent Grayson Flying Service, Inc. dba Voyager Air Center *Policy Revision 2 (September 2002)*
Case ID No. 23827 *PCW Revision December 10, 2004*
Reg. Ent. Reference No. RN101563856
Additional ID No(s). Petroleum Storage Tank No. 56530
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Cheryl Thompson
Site Address 5318 Airport Drive, Denison, Texas 75020

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (<i>number of NOV's meeting criteria</i>)	2	10%
	Other written NOV's	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) 10%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes The respondent received previous NOV's for the same or similar violations on March 2, 2004 and July 20, 2004, and is a high performer.

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

Screening Date 13-Jan-2005 Docket No. 2005-0270-PST-E PCW

Respondent Grayson Flying Service, Inc. dba Voyager Air Center Policy Revision 2 (September 2002)

Case ID No. 23827 PCW Revision December 10, 2004

Reg. Ent. Reference No. RN101563856

Additional ID No(s). Petroleum Storage Tank No. 56530

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cheryl Thompson

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.74

Secondary Rule Cite(s)

Violation Description Failed to investigate and remediate release from ASTs at the site.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual		X		50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent

Matrix Notes Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or the environment.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events 4

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

Violation Base Penalty \$20,000

Four quarterly events are recommended from the period of February 27, 2004 (date of inspection) to January 13, 2005 (date of screening), to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$82

Violation Final Penalty Total \$20,000

This violation Final Assessed Penalty (adjusted for limits) \$20,000

Economic Benefit Worksheet

Respondent Grayson Flying Service, Inc. dba Voyager Air Center
Case ID No. 23827
Reg. Ent. Reference No. RN101563856
Additional ID No(s). Petroleum Storage Tank No. 56530
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	Percent Interest	Years of Depreciation
						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)	\$1,000	27-Feb-2004	16-Oct-2005	1.6	\$82	n/a	\$82

Notes for DELAYED costs: Estimated cost to prevent the discharge of petroleum products from secondary containment to surface and subsurface soils adjacent to the ASTs at the site.

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 **\$1,000** **TOTAL** **\$82**

Screening Date 13-Jan-2005

Docket No. 2005-0270-PST-E

PCW

Respondent Grayson Flying Service, Inc. dba Voyager Air Center

Policy Revision 2 (September 2002)

Case ID No. 23827

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN101563856

Additional ID No(s). Petroleum Storage Tank No. 56530

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cheryl Thompson

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.129(a)

Secondary Rule Cite(s)

Violation Description Failed to submit requested initial report or correspondence discussing remediation of fuel release at the site.

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
	X			25%

Matrix Notes 100% of the rule requirement was not met.

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 based on a record review conducted on October 24, 2004.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$2,500

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

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Economic Benefit Worksheet

Respondent Grayson Flying Service, Inc. dba Voyager Air Center
Case ID No. 23827
Reg. Ent. Reference No. RN101563856
Additional ID No(s). Petroleum Storage Tank No. 56530
Media [Statute] Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$200	27-Feb-2005	16-Sep-2005	0.6	\$6	n/a	\$6

Notes for DELAYED costs Estimated cost to submit a written report discussing remediation of fuel released at the site.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 **\$200** **TOTAL** **\$6**

Compliance History

Customer/Respondent/Owner-Operator: CN600828065 Grayson Flying Service, Inc. dba Voyager Air Center Classification: HIGH Rating: 0.00

Regulated Entity: RN101563856 VOYAGER AIR CENTER Classification: HIGH Site Rating: 0.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 56530

Location: 5318 AIRPORT DR, DENISON, TX, 75020 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: June 25, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 01, 2001 to February 01, 2005

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

Name: Cheryl Thompson Phone: (817) 588-5886

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 03/01/2004 | (264567) |
|---|------------|----------|
- N/A
- | | | |
|---|------------|----------|
| 2 | 07/16/2004 | (282772) |
| 3 | 01/04/2005 | (338897) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 03/02/2004 | (264567) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | TWC Chapter 26 26.121[G] | | |
| Description: | Failure to prevent discharge of petroleum products from secondary containment to surface and subsurface soils adjacent to aboveground fuel storage tanks. | | |
| Date: | 07/20/2004 | (282772) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | TWC Chapter 26 26.121[G] | | |
| Description: | Failure to prevent discharge of petroleum products from secondary containment to surface and subsurface soils adjacent to aboveground fuel storage tanks. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 327 327.5(c)[G] | | |
| Description: | Failure to submit requested initial report or correspondence discussing remediation of fuel release at the site. | | |
- 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
GRAYSON FLYING SERVICE,
INC. DBA VOYAGER AIR
CENTER; RN101563856**

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§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2005-0270-PST-E**

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The Respondent made the subject of this Order is Grayson Flying Service, Inc. dba Voyager air Center ("Grayson").

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

FINDINGS OF FACT

1. At the time of the violations, Grayson owned and operated a flight and instruction service at 5318 Airport Dr. in Denison, Grayson County, Texas (the "Facility").
2. Grayson's two aboveground storage tanks ("ASTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Grayson's ASTs contain a regulated substance as defined in the rules of the Commission.
3. During an inspection on February 27, 2004, a TCEQ DFW Regional Office investigator documented that Grayson failed to investigate and remediate a release from ASTs at the Facility.
4. During inspections conducted on June 25, 2004 and September 17, 2004, and a record review conducted on October 24, 2004, a TCEQ DFW Regional Office investigator documented that Grayson failed to submit the required initial report or correspondence discussing remediation of fuel released at the Facility.
5. Grayson received notice of the violation in paragraph 3 on or about March 8, 2004.

6. Grayson received notice of the violation in paragraph 4 on or about July 25, 2004 and January 8, 2005.
7. 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 Grayson Flying Service dba Voyager Air Center" (the "EDPRP") in the TCEQ Chief Clerk's office on November 9, 2006.
8. By letter dated November 9, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Grayson with notice of the EDPRP. According to the return receipt "green card," Grayson received notice of the EDPRP on November 13, 2006, as evidenced by the signature on the card.
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 Grayson Flying Service dba Voyager Air Center" (the "EDFARP") in the TCEQ Chief Clerk's office on February 2, 2007.
10. By letter dated February 2, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Grayson with notice of the EDFARP. According to the return receipt "green card," Grayson received notice of the EDFARP on February 5, 2007, as evidenced by the signature on the card.
11. 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 Grayson Flying Service dba Voyager Air Center" (the "EDSARP") in the TCEQ Chief Clerk's office on April 5, 2007.
12. By letter dated April 5, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Grayson with notice of the EDSARP. According to the return receipt "green card," Grayson received notice of the EDSARP on April 10, 2007, as evidenced by the signature on the card.
13. More than 20 days have elapsed since Grayson received notice of the EDPRP, EDFARP, and EDSARP provided by the Executive Director. Grayson failed to file an answer to either the EDPRP, EDFARP, or EDSARP, failed to request a hearing, and failed to schedule a settlement conference.

14. The Executive Director recognizes that Grayson no longer owns the property at the Facility due to a bank foreclosure on January 2, 2007.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Grayson is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Grayson failed to investigate and remediate a release from ASTs at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.74.
3. As evidenced by Finding of Fact No. 4, Grayson failed to submit a required initial report or correspondence discussing remediation of fuel released at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.129(a).
4. As evidenced by Finding of Fact Nos. 7, 8, 9, 10, 11, and 12 the Executive Director has timely served Grayson with proper notice of the EDPRP, the EDFARP, and the EDSARP as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 13, Grayson has failed to file a timely answer to either the EDPRP, EDFARP or EDSARP, 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 Grayson 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 Grayson 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 twenty-two thousand five hundred dollars (\$22,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Grayson is assessed an administrative penalty in the amount of twenty-two thousand five hundred dollars (\$22,500.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Grayson'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: Grayson Flying Service dba Voyager Air Center; Docket No. 2005-0270-PST-E" to:

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

2. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Grayson. Grayson is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
4. If Grayson 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, Grayson's failure to comply is not a violation of this Order. Grayson shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Grayson shall notify the Executive Director within seven days after Grayson becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Grayson shall be made in writing to the Executive Director. Extensions are not effective until Grayson receives written approval

from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Grayson if the Executive Director determines that Grayson has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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 Grayson Flying Service dba Voyager Air Center" (the "EDPRP") with the Office of the Chief Clerk on November 9, 2006.

I sent the EDPRP to Grayson at its last known address on November 9, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Grayson received notice of the EDPRP on November 13, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I 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 Grayson Flying Service dba Voyager Air Center" (the "EDFARP") with the Office of the Chief Clerk on February 2, 2007.

I sent the EDFARP to Grayson at its last known address on February 2, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Grayson received notice of the EDFARP on February 5, 2007, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I 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 Grayson Flying Service dba Voyager Air Center" (the "EDFARP") with the Office of the Chief Clerk on April 5, 2007.

I sent the EDSARP to Grayson at its last known address on April 5, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt

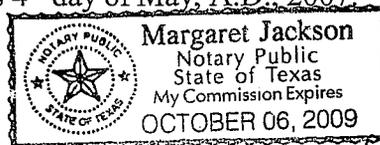
"green card," Grayson received notice of the EDSARP on April 10, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since Grayson received notice of the EDPRP, EDFARP and EDSARP. Grayson failed to file an answer to either the EDPRP, EDFARP or EDSARP, 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 4th day of May, A.D., 2007.



Notary Stamp

