

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-0084-PST-E TCEQ ID: RN102409851 CASE NO.: 32212**  
**RESPONDENT NAME: PRINCE TEXAS GROUP, INC.**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 1202 Magnolia Avenue, Port Neches, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> abandoned convenience store with underground storage tanks</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> One complaint was received, alleging that an abandoned convenience store with gasoline tanks may contain gasoline. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> The complainant has not expressed a desire to protest this action or speak at agenda. No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 26, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5825  <b>TCEQ Regional Contact:</b> Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838  <b>Respondent:</b> Mr. Firdous Hamani, Vice-President, Prince Texas Group, Inc., 1202 Magnolia Avenue, Port Neches, Texas 77651; 7447 Harwin #213, Houston, Texas 77036  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>                      October 23, 2006</p> <p><b>Date of Investigation Relating to this Case:</b>                      November 6, 2006</p> <p><b>Date of NOE Relating to this Case:</b>                      January 5, 2007</p> <p><b>Background Facts:</b>                      The EDPRP was filed on June 11, 2008 and mailed to the Respondent 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 13, 2008, as evidenced by the signature on the card. The Respondent has failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b>                      The Respondent no longer owns the Facility as of March 1, 2008.</p> <p><b>PST:</b></p> <p>1. Failed to either permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, or to ensure that any residue from stored regulated substances which remain in a temporarily out-of-service UST shall not exceed 2.5 centimeters at the deepest point and shall not exceed 0.3 percent by weight of the system at full capacity [30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(d)(2)].</p> <p>2. Failed to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)].</p> <p>3. Failed to provide an amended UST registration to the Commission for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, as applicable [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>	<p><b>Total Assessed:</b> \$11,050</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$11,050</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><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>No technical requirements are being requested because Respondent no longer owns the Facility.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-Jan-2007	<b>Screening</b>	11-Jan-2007	<b>EPA Due</b>	
	<b>PCW</b>	17-Apr-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Prince Texas Group, Inc.
<b>Reg. Ent. Ref. No.</b>	RN102409851
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	32212	<b>No. of Violations</b>	2
<b>Docket No.</b>	2007-0084-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Judy Kluge
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$8,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	30% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,550</b>
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<b>Notes</b>	Enhancement due to Poor Performer classification and previous Agreed Order effective June 9, 2005.
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<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
<b>Extraordinary</b>		
<b>Ordinary</b>		
<b>N/A</b>	X	(mark with x)
<b>Notes</b>	The respondent does not meet the good faith criteria.	

	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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<b>Total EB Amounts</b>	\$6,282	*Capped at the Total EB \$ Amount
<b>Approx. Cost of Compliance</b>	\$10,100	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$11,050</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$11,050</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$11,050</b>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	This is not an expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$11,050</b>
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Screening Date: 11-Jan-2007

Docket No. 2007-0084-PST-E

PCW

Respondent: Prince Texas Group, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32212

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102409851

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 (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 judgments 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%
<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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement due to Poor Performer classification and previous Agreed Order effective June 9, 2005.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 11-Jan-2007

Docket No. 2007-0084-PST-E

PCW

Respondent Prince Texas Group, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32212

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102409851

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 334.47(a)(2), 334.54(b) and (d)(2)

Violation Description Failed to either permanently remove the USTs from service no later than 60 days after the prescribed implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements or to ensure that any residue from stored regulated substances which remained in a temporarily out-of-service UST system did not exceed 2.5 centimeters at the deepest point and did not exceed 0.3 percent by weight of the system at full capacity. Specifically, one tank contained 4 inches of gasoline and 2 inches of water, a second tank contained 9 inches of gasoline and 2 inches of water, and the third tank contained 3 inches of water only. Also, failed to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons. Specifically, three tank fill ports and two Stage I recovery risers were not locked making them susceptible to vandalism by unauthorized persons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> 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 3 Number of violation days 66

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Three quarterly events are recommended (one per UST) based on the November 6, 2006 investigation date to the January 11, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6,277

Violation Final Penalty Total \$9,750

This violation Final Assessed Penalty (adjusted for limits) \$9,750

## Economic Benefit Worksheet

**Respondent** Prince Texas Group, Inc.  
**Case ID No.** 32212  
**Reg. Ent. Reference No.** RN102409851  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	22-Dec-1998	8-Dec-2007	9.0	\$299	\$5,978	\$6,277
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

The estimated cost of permanently removing the UST system from service. The date required is the date when the respondent was required to upgrade the UST system and the final date is the projected 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

\$10,000

**TOTAL**

\$6,277

Screening Date 11-Jan-2007

Docket No. 2007-0084-PST-E

PCW

Respondent Prince Texas Group, Inc.

Policy Revision 2 (September 2002)

Case ID No. 32212

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102409851

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description Failed to provide an amended UST registration to the Commission for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, as applicable. Specifically, the registration information had not been properly amended to reflect the current out-of-service status of the USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

Number of violation days 1

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based documentation of the violation during the November 6, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,300

This violation Final Assessed Penalty (adjusted for limits) \$1,300

## Economic Benefit Worksheet

**Respondent** Prince Texas Group, Inc.  
**Case ID No.** 32212  
**Reg. Ent. Reference No.** RN102409851  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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### 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
UST Registration	\$100	6-Nov-2006	8-Dec-2007	1.1	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to submit an amended UST registration 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

\$100

**TOTAL**

\$5



## Compliance History

Customer/Respondent/Owner-Operator:	CN601243538 Prince Texas Group, Inc.	Classification: POOR	Rating: 87.55
Regulated Entity:	RN102409851 SUPER STOP 13	Classification: POOR	Site Rating: 100.00
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	40085
ID Number(s):			
Location:	1202 MAGNOLIA AVE, PORT NECHES, TX, 77651	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	February 12, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 11, 2002 to January 11, 2007		

TCEQ 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?    | Yes                             |
| 3. If Yes, who is the current owner?   | <u>Prince Texas Group, Inc.</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>SNW Enterprises, Inc.</u>    |
| 5. When did the change(s) in ownership occur?  | <u>08/17/2006</u>               |

### 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 Effective Date: 06/09/2005 ADMINORDER 2002-0698-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)(B)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to conduct testing to verify the proper operation of the Stage II system equipment within 30 days of replacement or major system modification of the Stage II system equipment.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to have a copy of the applicable CARB Executive Order for the Vapor Recovery System in use at the Facility

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(M)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain the Stage II system free of any equipment defect that would substantially impair the effectiveness of the system in reducing refueling vapors.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain a record of daily inspections.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  
30 TAC Chapter 115, SubChapter C 115.248(1)[G]  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain the Stage II system facility representative training certification documents and failure to make each current employee aware of the purpose of and correct operation of vapor recovery equipment.

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 07/14/2005 (380269)

2 01/15/2002 (144574)

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

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  
PRINCE TEXAS GROUP, INC.  
RN102409851

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2007-0084-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 and corrective action of the respondent. The respondent made the subject of this Order is Prince Texas Group, Inc. ("Prince Texas").

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

**FINDINGS OF FACT**

1. Prince Texas owned an abandoned convenience store with underground storage tanks ("USTs") located at 1202 Magnolia Avenue, Port Neches, Jefferson County, Texas (the "Facility").
2. Prince Texas' three underground storage tanks ("USTs") were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Prince Texas' USTs contained a regulated substance as defined in the rules of the Commission.
3. During an inspection on November 6, 2006, a TCEQ Beaumont Regional Office investigator documented that Prince Texas:
  - a. Failed either to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, or to ensure that any residue from stored regulated substances which remain in a temporarily out-of-service UST shall not exceed 2.5 centimeters at the deepest point and shall not

- exceed 0.3 percent by weight of the system at full capacity. Specifically, one tank contained four inches of gasoline and two inches of water, a second tank contained nine inches of gasoline and two inches of water, and the third tank contained three inches of water;
- b. Failed to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons. Specifically, three tank fill ports and two Stage I recovery risers were not locked making them susceptible to vandalism by unauthorized persons; and
  - c. Failed to provide an amended UST registration to the Commission for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, as applicable. Specifically, the registration information had not been properly amended to reflect the current out-of-service status of the USTs.
4. Prince Texas received notice of the violations on or about January 10, 2007.
  5. The Executive Director recognizes that Prince Texas no longer owns the Facility as of March 1, 2008.
  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 Prince Texas Group, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on June 11, 2008.
  7. By letter dated June 11, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Prince Texas with notice of the EDPRP. According to the return receipt "green card", Prince Texas received notice of the EDPRP on June 13, 2008, as evidenced by the signature on the card.
  8. More than 20 days have elapsed since Prince Texas received notice of the EDPRP, provided by the Executive Director. Prince Texas 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, Prince Texas is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3.a., Prince Texas failed to either permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, or to ensure that any residue from stored regulated substances which remain in a temporarily out-of-service UST shall not exceed 2.5 centimeters at the deepest point and shall not exceed 0.3 percent by weight of the system at full capacity, in violation of 30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(d)(2).
3. As evidenced by Finding of Fact No. 3.b., Prince Texas failed to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b).
4. As evidenced by Finding of Fact No. 3.c., Prince Texas failed to provide an amended UST registration to the Commission for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, as applicable, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
5. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Prince Texas with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 8, Prince Texas 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 Prince Texas and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Prince Texas 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.
8. An administrative penalty in the amount of eleven thousand fifty dollars (\$11,050.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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. Prince Texas is assessed an administrative penalty in the amount of eleven thousand fifty dollars (\$11,050.00) for violations of TEX. WATER CODE chs. 7 and 26, and rules of the TCEQ. The payment of this administrative penalty and Prince Texas' 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: Prince Texas Group, Inc.; Docket No. 2007-0084-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 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 Prince Texas if the Executive Director determines that Prince Texas has not complied with one or more of the terms or conditions in this Order.
4. 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.
5. 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.

Prince Texas Group, Inc.  
2007-0084-PST-E  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF REBECCA M. COMBS**

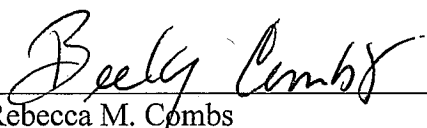
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Rebecca M. Combs. 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 Prince Texas Group, Inc.” (the “EDPRP”) was filed with the Office of the Chief Clerk on June 11, 2008.

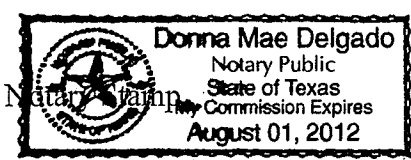
The EDPRP was sent to Prince Texas at its last known address on June 11, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Prince Texas received notice of the EDPRP on June 13, 2008 as evidenced by the signature on the card.

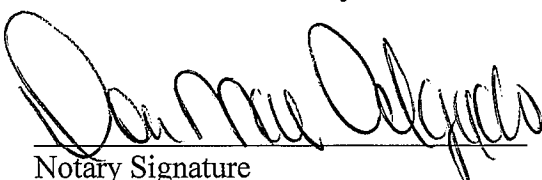
More than 20 days have elapsed since Prince Texas received notice of the EDPRP. Prince Texas failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.

  
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Rebecca M. Combs  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rebecca M. Combs, 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 5<sup>th</sup> day of November, 2008.



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