

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0504-PST-E TCEQ ID: RN102063088 CASE NO.: 31754
RESPONDENT NAME: BUDDY FORD

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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: 300 W. Pinecrest Dr. in Marshall, Harrison County</p> <p>TYPE OF OPERATION: Auto repair and gas station business</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 9, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 236-5846 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Ross Fife, Waste Enforcement Section, MC 169, (512) 239-2541 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Buddy Ford, 300 W. Pinecrest Dr, Marshall, TX 75670 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None.</p> <p>Date of Investigation Relating to this Case: February 23, 2006</p> <p>Date of NOE Relating to this Case: April 5, 2006</p> <p>Background Facts: The case was referred to the Litigation Division on June 20, 2006. The case was referred back to the Enforcement Division for further case development on October 31, 2006. The EDPRP was filed on September 17, 2007. Following extensive negotiation with the Respondent, settlement was achieved and a signed Agreed Order with initial payment was received on November 20, 2008.</p> <p>Current Compliance Status: The Respondent is not yet in compliance.</p> <p>PST:</p> <p>1. Failed to renew a delivery certificate by submitting a new UST Registration and Self-Certification form 30 days before the expiration of the delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)].</p> <p>2. Failed to provide a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances including the tanks, piping, and other underground ancillary equipment. Failed to reconcile inventory control records on a monthly basis, which are sufficiently accurate to detect a release which equals or exceeds the sum on 1% of flow-through for the month plus 130 gallons. Failed to test the line leak detector at least once per year for performance and reliability [30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), 334.50(d)(1)(B)(ii), and 334.50(b)(2)(A)(i)(III); and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p>	<p>Total Assessed: \$5,704</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/ Due to General Revenue: \$214/\$5,704</p> <p>The Respondent has paid \$214 of the administrative penalty. The remaining amount of \$5,490 of the administrative penalty shall be payable in 30 monthly payments of \$183 each.</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>Technical Requirements:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days: <ol style="list-style-type: none"> a. Submit a completed UST Registration and Self-Certification form to renew the Facility's delivery certificate; b. Install or implement a method of release detection for the UST system; c. Begin reconciling inventory control records on a monthly basis which are sufficiently accurate to detect a release which equals or exceeds the sum of 1% of flow-through for the month plus 130 gallons; d. Test the line leak detector for performance and reliability; e. Securely anchor the shear valve in each pressurized product line; and f. Begin maintaining all required records related to the UST system, which shall include, but not be limited to records to demonstrate compliance with overflow prevention equipment. 2. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision Nos. 1.a. through 1.f.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to install a securely anchored emergency shut-off valve (shear or impact valve) in each pressurized product line [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>4. Failed to comply with general record keeping requirements for owners and operators of UST systems [30 TEX. ADMIN. CODE § 334.10(b)].</p>		



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision February 29, 2008

TCEQ

DATES	Assigned	18-Apr-2006	Screening	28-Apr-2006	EPA Due	
	PCW	6-Jul-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Buddy Ford
Reg. Ent. Ref. No.	RN102063088
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	31754	No. of Violations	4	
Docket No.	2006-0504-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Ross Fife	
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	\$4,600
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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.

Compliance History	24% Enhancement	Subtotals 2, 3, & 7	\$1,104
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Notes
The respondent has received two written notices of violations (NOVs) with other violation as those in the current enforcement action and one agreed final enforcement order containing a denial of liability.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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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.

Total EB Amounts	\$521	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$2,550	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,704
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$5,704

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,704
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$5,704
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Screening Date 28-Apr-2006	Docket No. 2006-0504-PST-E	PCW
Respondent Buddy Ford		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 31754		<i>PCW Revision February 29, 2008</i>
Reg. Ent. Reference No. RN102063088		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Ross Fife		

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>	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <i>(number of judgments 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 submitted)</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) 24%

>> Repeat Violator (Subtotal 3)

No	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes

The respondent has received two written notices of violations (NOVs) with other violation as those in the current enforcement action and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

Screening Date	28-Apr-2006	Docket No.	2006-0504-PST-E	PCW
Respondent	Buddy Ford	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	31754	<i>PCW Revision February 29, 2008</i>		
Reg. Ent. Reference No.	RN102063088			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Ross Fife			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)			
Violation Description	Failed to renew a delivery certificate by submitting a new UST registration and self-certification form 30 days before the expiration of the delivery certificate in question. Specifically, during the investigation, it was documented that the respondent did not renew the delivery certificate that expired on April 30, 2005.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Matrix Notes	The respondent failed to comply with 100% of the rule requirement.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
single event	<input checked="" type="checkbox"/>	

Violation Base Penalty

One single event is recommended based on documentation of the violation during the February 23, 2006 investigation.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Buddy Ford
Case ID No. 31754
Reg. Ent. Reference No. RN102063088
Media 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
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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
Other (as needed)	\$200	21-Mar-2005	10-Feb-2009	3.9	\$39	n/a	\$39

Notes for DELAYED costs

This is an estimated cost to submit a new UST registration and self-certification form to renew a delivery certificate. The date required is 30 days prior to the delivery certification expiration date and the final date is the projected 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

\$200

TOTAL

\$39

Screening Date 28-Apr-2006	Docket No. 2006-0504-PST-E	PCW		
Respondent Buddy Ford		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 31754		<i>PCW Revision February 29, 2008</i>		
Reg. Ent. Reference No. RN102063088				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Ross Fife				
Violation Number 2				
Rule Cite(s)	30 Tex. Admin. Code §§ 334.50(a)(1)(A), 334.50(d)(1)(B)(ii), 334.50(b)(2)(A)(i)(III) and Tex. Water Code §§ 26.3475(a) and (c)(1)			
Violation Description	Failed to provide a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances including the tanks, piping, and other underground ancillary equipment. Failure to reconcile inventory control records on a monthly basis which are sufficiently accurate to detect a release which equals or exceeds the sum of 1% of flow-through for the month plus 130 gallons. Failure to test the line leak detector at least once per year for performance and reliability. During the investigation, it was documented that the respondent did not have any release detection method and was not reconciling inventory control records. Additionally, the respondent could not provide any evidence to demonstrate that the line leak detector was tested.			
	Base Penalty	\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	25%	
>> Programmatic Matrix				
OR	Falsification			
	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	
		Percent	0%	
Matrix Notes	Failure to monitor the UST system for possible releases and reconcile inventory control records could result in an undetected release of petroleum products which would exceed levels that are protective of human health or environmental receptors.			
	Adjustment	\$7,500		
		Subtotal	\$2,500	
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="34"/> Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>	
	monthly	<input type="text"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
	One quarterly event is recommended based on documentation of the violation during the February 23, 2006 investigation to the April 28, 2006 enforcement screening date.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$363"/>	Violation Final Penalty Total	<input type="text" value="\$3,100"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$3,100"/>	

Economic Benefit Worksheet

Respondent Buddy Ford
Case ID No. 31754
Reg. Ent. Reference No. RN102063088
Media 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
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,750	23-Feb-2006	10-Feb-2009	3.0	\$17	\$346	\$363
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 This is an estimated cost to implement a release detection method for the UST system, begin reconciling inventory control records, and testing the line leak detector. The date required is the investigation date and the final date is the projected 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	\$1,750	TOTAL	\$363
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Screening Date	28-Apr-2006	Docket No.	2006-0504-PST-E	PCW
Respondent	Buddy Ford	Policy Revision 2 (September 2002)		
Case ID No.	31754	PCW Revision February 29, 2008		
Reg. Ent. Reference No.	RN102063088			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Ross Fife			

Violation Number

Rule Cite(s)

Violation Description Failed to install a securely anchored emergency shut-off valve (shear or impact valve) in each pressurized product line. Specifically, during the investigation, it was documented that the shear valves beneath the three dispensers were not anchored.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="10%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	x	<input type="text"/>		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes Failure to anchor the shear valves could expose human health or the environment to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	x
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

One quarterly event is recommended based on the February 23, 2006 investigation to the April 28, 2006 enforcement screening date.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Buddy Ford
Case ID No.: 31754
Reg. Ent. Reference No.: RN102063088
Media: Petroleum Storage Tank
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	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)	\$500	23-Feb-2006	10-Feb-2009	3.0	\$5	\$99	\$104
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: This is an estimated cost to securely anchor the shear valve for each pressurized product line. The date required is the investigation date and the final date is the projected 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	\$500	TOTAL	\$104
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Screening Date 28-Apr-2006	Docket No. 2006-0504-PST-E	PCW
Respondent Buddy Ford	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 31754	<small>PCW Revision February 29, 2008</small>	
Reg. Ent. Reference No. RN102063088		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Ross Fife		
Violation Number <input type="text" value="4"/>		
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)	
Violation Description	Failed to comply with general record keeping requirements for owners and operators of UST systems. Specifically, during the investigation, it was documented that the respondent could not provide documentation to demonstrate adequate overfill prevention equipment.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification			
	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	
				Percent <input type="text" value="1%"/>
Matrix Notes	The respondent failed to comply with less than 30% of the rule requirement.			

Adjustment

Violation Events

Number of Violation Events Number of violation days

	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$15"/>	Violation Final Penalty Total <input type="text" value="\$124"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$124"/>	

Economic Benefit Worksheet

Respondent Buddy Ford
Case ID No. 31754
Reg. Ent. Reference No. RN102063088
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$100	23-Feb-2006	10-Feb-2009	3.0	\$15	n/a	\$15
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
 This is an estimated cost to implement a record keeping system to maintain documentation to demonstrate adequate overfill prevention equipment. The date required is the investigation date and the final date is the projected 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
 (Empty box for notes)

Approx. Cost of Compliance	\$100	TOTAL	\$15
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Compliance History

Customer/Respondent/Owner-Operator: CN602996076 FORD, BUDDY Classification: AVERAGE Rating: 9.33
Regulated Entity: RN102063088 MARSHALL SHAMROCK Classification: Site Rating:
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 24657
REGISTRATION
Location: 300 W PINECREST DR, MARSHALL, TX, 75670
TCEQ Region: REGION 05 - TYLER
Date Compliance History Prepared: July 10, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 10, 2003 to July 10, 2008

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

Name: Ross Fife Phone: 512-239-2541

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? Buddy Ford
4. If Yes, who was/were the prior owner(s)? Kirby and Kirby Oil
5. When did the change(s) in ownership occur? 10/20/2006

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 10/10/2005 ADMINORDER 2005-0404-PST-E
Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to demonstrate financial responsibility 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 underground storage tanks (USTs).

- 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 06/23/2004 (288781)
2 02/10/2005 (292981)
3 01/05/2006 (450821)
4 04/05/2006 (456693)
5 04/06/2006 (518507)

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

Date: 06/23/2004 (288781)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)
Description: FAILURE TO PROVIDE ACCEPTABLE FINANCIAL ASSURANCE.
Date: 01/04/2006 (450821)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)

Description: 30 TAC Chapter 37, SubChapter I 37.815(b)
Failure to demonstrate financial responsibility 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 underground storage tanks (USTs).

Self Report? NO Classification Major

Citation: 2A TWC Chapter 7, SubChapter A 7.101

Rqmt Prov: ORDER OP No. 2

Description: Failure to comply with Ordering Provision No. 2 of Agreed Order Docket No. 2005-0404-PST-E.

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
BUDDY FORD
RN102063088**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2006-0504-PST-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Buddy Ford ("Buddy Ford") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Buddy Ford, appear before the Commission and together stipulate that:

1. Buddy Ford owns and operates an auto repair and gas station business located at 300 W. Pinecrest Dr. in Marshall, Harrison County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Buddy Ford agree that the Commission has jurisdiction to enter this Agreed Order, and that Buddy Ford is subject to the Commission's jurisdiction.
4. Buddy Ford received notice of the violations alleged in Section II ("Allegations") on or about April 11, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Buddy Ford of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of five thousand seven hundred four dollars (\$5,704.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Buddy Ford has paid (\$214.00) of the administrative penalty. The remaining amount of five thousand four hundred ninety dollars (\$5,490.00) of the administrative penalty shall be payable in 30 monthly payments of one hundred eighty-three

dollars (\$183.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Buddy Ford fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Buddy Ford's failure to meet the payment schedule of this Agreed Order constitutes the failure by Buddy Ford to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Buddy Ford have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Buddy Ford has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Buddy Ford is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii) by failing to renew a delivery certificate by submitting a new UST registration and self-certification form 30 days before the expiration of the delivery certificate in question, as documented on February 23, 2006.
2. 30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), 334.50(d)(1)(B)(ii), and 334.50(b)(2)(A)(i)(III); and TEX. WATER CODE § 26.3475(a) and (c)(1) by failing to provide a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances including the tanks, piping, and other underground ancillary equipment, failing to reconcile inventory control records on a monthly basis, which are sufficiently accurate to detect a release which equals or exceeds the sum on 1% of flow-through for the

month plus 130 gallons, and failing to test the line leak detector at least once per year for performance and reliability. During the investigation, it was documented that Mr. Ford did not have any release detection method and was not reconciling inventory control records. Additionally, the respondent could not provide any evidence to demonstrate the line leak detector was tested, as documented on February 23, 2006.

3. 30 TEX. ADMIN. CODE § 334.45(c)(3)(A) by failing to install a securely anchored emergency shut-off valve (shear or impact valve) in each pressurized product line, as documented on February 23, 2006.
4. 30 TEX. ADMIN. CODE § 334.10(b) by failing to comply with general record keeping requirements for owners and operators of UST systems, as documented on February 23, 2006.

III. DENIALS

Buddy Ford generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Buddy Ford pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Buddy Ford’s compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Buddy Ford, Docket No. 2006-0504-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. Buddy Ford shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order Buddy Ford shall:

- i. Submit a completed UST registration and self-certification form to renew the Facility's delivery certificate, in accordance with 30 TEX. ADMIN. CODE § 334.8;
 - ii. Install or implement a method of release detection for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - iii. Begin reconciling inventory control records on a monthly basis which are sufficiently accurate to detect a release which equals or exceeds the sum of 1% of flow-through for the month plus 130 gallons, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - iv. Test the line leak detector for performance and reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - v. Securely anchor the shear valve in each pressurized product line, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - vi. Begin maintaining all required records related to the UST system, which shall include, but not be limited to records to demonstrate compliance with overflow prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.10.
- b. Within 45 days after the effective date of this Agreed Order, Buddy Ford shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. 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."

Buddy Ford shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. to:

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

and

Michael Brashear, Waste Section Manager
Texas Commission on Environmental Quality
Tyler Regional Office
2916 Teague Drive
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon Buddy Ford. Buddy Ford is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Buddy Ford fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Buddy Ford's failure to comply is not a violation of this Agreed Order. Buddy Ford shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Buddy Ford shall notify the Executive Director within seven days after Buddy Ford 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 Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Buddy Ford shall be made in writing to the Executive Director. Extensions are not effective until Buddy Ford receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Buddy Ford in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Buddy Ford, or three days after the date on which the Commission mails notice of the Order to Buddy Ford, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Buddy Ford
DOCKET NO. 2006-0504-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

11/15/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or Respondent's failure to timely pay the penalty amount may result in:

- A negative impact on Respondent's compliance history;
- Greater scrutiny of any permit applications submitted by Buddy Ford;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Buddy Ford;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Buddy Ford; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

Buddy Ford
Signature

11/20/08
Date

Buddy Ford
Name (Printed or typed)
Authorized representative of
Buddy Ford

Owner
Title