## EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

**DOCKET NO.:** 2008-1159-PST-E **TCEQ ID:** RN101787885 **CA** 

**CASE NO.:** 36295

RESPONDENT NAME: Gerene Ferguson

ORDER TYPE:		
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
AMENDED ORDER	_EMERGENCY ORDER	
CASE TYPE:		
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION
facility location.  INTERESTED PARTIES: No one other th  COMMENTS RECEIVED: The Texas Reg  CONTACTS AND MAILING LIST:  TCEQ Attorney/SEP Coordinate	_ No re are no complaints. There is no record of addition an the ED and the Respondent has expressed an inte rister comment period expired on February 2, 2009.	rest in this matter.  No comments were received.
Bryan Sinclair, Enforcement Divis Respondent: Ms. Gerene Ferguson		s 79424

# RESPONDENT NAME: Gerene Ferguson DOCKET NO.: 2008-1159-PST-E

#### VIOLATION SUMMARY CHART: PENALTY CONSIDERATIONS VIOLATION INFORMATION CORRECTIVE ACTIONS TAKEN/REQUIRED Corrective Actions Taken: Type of Investigation: Total Assessed: \$5,748 \_ Complaint The Executive Director recognizes that the Routine Total Deferred: \$1,149 Respondent has completed the following Enforcement Follow-up X Expedited Settlement X Records Review corrective measures at the Facility: Financial Inability to Pay a. On July 1, 2008, the leak detection Date(s) of Complaints Relating to this system was replaced and a leak test was SEP Conditional Offset: \$0 Case: None conducted on the UST; and Date of Investigation Relating to this Total Paid to General Revenue: \$4,599 Case: June 17, 2008 b. On July 30, 2008, all fuel was removed Site Compliance History Classification from the UST. Date of NOV/NOE Relating to this Case: High X Average Poor June 19, 2008 (NOE) **Ordering Provisions:** Person Compliance History Classification The Order will require the Respondent to: Background Facts: This was a record \_\_ High \_\_ Average \_\_ Poor review. Major Source: \_\_\_Yes \_\_X\_No a. Immediately upon the effective date of this Agreed Order, begin to maintain the WASTE required records for the UST at the Applicable Penalty Policy: September 2002 Facility; 1) Failure to maintain required records pertaining to the UST system at the b. Within 30 days after the effective date Facility [30 Tex. ADMIN. CODE § of this Agreed Order, submit 82.00 334.10(b)(1)(B)]. documentation that demonstrates acceptable financial assurance for taking 2) Failure to provide a method of release detection capable of detecting a release corrective actions and for compensating from any portion of the UST system and third parties for bodily injury and property damage caused by accidental releases failed to test or monitor the line leak arising from the operation of a petroleum detectors at least once per year for performance and operational reliability [30 UST; and TEX. ADMIN. CODE § 334.50(a)(1) and 334.50(b)(2)(A)(i)(lll) and (ii)]. c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed 3) Failure to demonstrate acceptable financial assurance for taking corrective supporting documentation including photographs, receipts, and/or other records actions and for compensating third parties to demonstrate compliance with Ordering for bodily injury and property damage caused by accidental releases arising from Provisions a. and b. the operation of a petroleum UST [30 TEX. ADMIN. CODE § 37.815(a) and (b)].

Additional ID No(s).: 63033

Policy Revision 2 (S	•	Iculation Worksheet (F	PCW)	June 12, 2008
TCEQ DATES Assigne		5-Jul-2008 EPA Due		
RESPONDENT/FACILIT Responder Reg. Ent. Ref. No Facility/Site Regio	Y INFORMATION it Gerene Ferguson D. RN101787885	Major/Minor Sourc	o Minor	
CASE INFORMATION	II Z-LUDDOCK	Wajor/Wilnor Sourc	e ivili lot	
	o. 2008-1159-PST-E c) Petroleum Storage Tank	No. of Violation Order Typ Government/Non-Profile Enf. Coordinato	e 1660 it No r James Nolan	
Admin. Penalty 9	Limit Minimum \$0 Ma	aximum \$10,000	n Enforcement Team 4	······
Annovament of the Control of the Con	Penalty	Calculation Section		
TOTAL BASE PENA	LTY (Sum of violation bas	se penalties)	Subtotal 1	\$4,500
ADJUSTMENTS (+/- Subtotals 2-7 are obt Compliance His	ained by multiplying the Total Base Penalt		totals 2, 3, & 7	\$315
Note		NOV for same or similar violations and one at this site within the past five years.		
Culpability Note	No The Respondent does	0.0% Enhancement not meet the culpability criteria.	Subtotal 4	\$0
Good Faith Effo	rt to Comply Total Adjustments		Subtotal 5	\$250
Economic Bene Approx	Total EB Amounts \$1,188 c. Cost of Compliance \$2,205	0.0% Enhancement* *Capped at the Total EB \$ Amount	Subtotal 6	\$0
SUM OF SUBTOTA	_S 1-7	energia de la composición del composición de la	Final Subtotal	\$4,565
	AS JUSTICE MAY REQUIR! Subtotal by the indicated percentage.	E 20.6%	Adjustment	\$1,183
Notes	Recommended enhancem	ents to capture the avoided costs of ns Nos. 2 and 3.		
TO THE PROPERTY AND THE		Final Pe	enalty Amount	\$5,748
STATUTORY LIMIT	ADJUSTMENT	Final Ass	essed Penalty	\$5,748
<b>DEFERRAL</b> Reduces the Final Assessed Po	enalty by the indicted percentage. (Enter n	20.0% Reduction with the control of	Adjustment	-\$1,149
Notes	Deferral offered	for expedited settlement.		With Child Control of the Control of
PAYABLE PENALT				\$4,599

\$4,599

Screening Date 15-Jul-2008

**Docket No.** 2008-1159-PST-E

PCW

Policy Revision 2 (September 2002) PCW Revision June 12, 2008

Respondent Gerene Ferguson

Case ID No. 36295

Reg. Ent. Reference No. RN101787885

Media [Statute] Petroleum Storage Tank

Enf Coordinator James Nolan

	y Site Enhancement (Subtotal 2)		A di	
Component	Number of	Enter Number Here	Adjust.	
NOVs	Written NOVs with same or similar violations as those in the current enforcement actio (number of NOVs meeting criteria)	1,	5%	,
in the control of the	Other written NOVs	1	2%	
	Any agreed final enforcement orders containing a denial of liability (number of order meeting criteria)	s 0	0%	
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a deni of liability, or default orders of this state or the federal government, or any final prohibito emergency orders issued by the commission		0%	
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liabili of this state or the federal government (number of judgements or consent decrees meetin criteria)		0%	
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final cou judgments or consent decrees without a denial of liability, of this state or the feder government	ırt al 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 Texa Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number audits for which notices were submitted)	as of 0	0%	
Audis	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Priviled Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	je 0	0%	
<u> Charles</u>	PI	ease Enter Yes or No		
	Environmental management systems in place for one year or more	No	0%	
Öther	Voluntary on-site compliance assessments conducted by the executive director under special assistance program	a No	0%	
011.91	Participation in a voluntary pollution reduction program	No	0%	
	Early compliance with, or offer of a product that meets future state or federal governme environmental requirements	nt No	0%	* * * * * * * * * * * * * * * * * * *
	Adjustment	Percentage (Si	ubtotal 2)	7
epeat Violator (S	ibtotal 3)	organism of the second		
N	6 Adjustment	Percentage (S	ubtotal 3) [	0
ompliance Histor	y Person Classification (Subtotal 7)			1020
Average F	Performer Adjustment	Percentage (Si	ubtotal 7)	0
ompliance Histor	y Summary			
Compliance History Notes	The Respondent received one NOV for same or similar violations and one NOV for dissin this site within the past five years.	nilar violations at		•

Screening Date 1		PCW
Respondent C		olicy Revision 2 (September 2002)
Case ID No. 3 Reg. Ent. Reference No. F		PCW Revision June 12, 2008
\$100 MANUAL BANKERS (\$1.10) and Table and a control of the control	Petroleum Storage Tank	
Enf. Coordinator <u>J</u>		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)(1)(B)	
Violation Description	Failed to maintain required records pertaining to the underground storage tank ("US system at the Facility, as documented during a record review investigation conducted June 17, 2008.	
	Base Per	nalty \$10,000
>> Environmental, Property and	Current Loos Motors Plant & Comment of the Comment	
>> Environmental, Property and	Harm	
Release	Major Moderate Minor	,
OR Actual Potential	Percent 0%	•
, Gental	Total Vision Vis	
>>Programmatic Matrix		
Falsification	Major Moderate Minor  x Percent 10%	
	TOTAL	
Matrix		4, 400 41 - 1
Notes Notes	100% of the rule requirement was not met.	41 B
256 CHR. 4 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		- State
	Adjustment \$9	,000
		\$1,000
Violation Events		
Number of Viol	ation Events Number of violation days	
	daily	
mark only one	monthly quarterly Violation Base Pen	nalty \$1,000
	Semiannual Violation base Pen	(arty (1,000)
	annual	
la de la companya de	single event	,
	One single event is recommended.	As a
<u> </u>		
Good Faith Efforts to Comply	0.0% Reduction	\$0
	Before NOV NOV to EDPRP/Settlement Offer  xtraordinary	
	Ordinary	
	N/A X ((mark with x)	
	The Respondent does not meet the good faith criteria for this	
	Notes violation.	
	Violation Subt	cotal \$1,000
Economic Benefit (EB) for this v	iolation Statutory Limit Test	
Estimated	EB Amount \$4 Violation Final Penalty T	otal \$1,290
	This violation Final Assessed Penalty (adjusted for lim	nits) \$1,290

	E	conomic	Benefit W	orks/	heet		
Respondent	Gerene Fergus	on	िक्षेत्रकार राज्या वर्षे राक्षेत्रकार कारण स्थापित है । प्रश्ची पर्य	all the strend of	. 1 KAMBARAND JENGGA BANGGATAN	e dian (18 mili ; saliptici) dee mis Sérim (18 f)	namanahilikente ito 1. 280
Case ID No.							
Reg. Ent. Reference No.							
얼마나 이 의료를 하는데 그는 그는 사람들은 사람들은 사람들은 사람들이 없었다.	Petroleum Stor	age Tank					Years of
Violation No.		age rank				Percent Interest	Depreciation
violation no:				349879747777			
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
ltem Description	No commas or \$					Sant - Sa	
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land	incline in the State of State		Colors Subsection (Carlot Carlot	0.00	\$0	n/a	\$0
Record Keeping System	\$100	17-Jun-2008	27-Mar-2009	0.78	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	Tropical Schaugeres			0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	5 · 18 · 28 · 4 · 8 · 8 · 8			0.00	\$0	n/a	\$0
Notes for DELAYED costs  Avoided Costs			Final Date is the e	estimated	date of complian	quired is investigatione.  one-time avoided c	
Disposal				7 0.00	\$0	\$0 I	\$0
Personnel	Established States		AND AND ADDRESS OF THE PARTY OF	0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]			**************************************	0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
· .							
Notes for AVOIDED costs							

PCW	Docket No. 2008-1159-PST-E	ening Date 15-Jul-2008	Sc
evision 2 (September 2002)	. Policy Re	Respondent Gerene Ferguson	
CW Revision June 12, 2008	PC	Case ID No. 36295	
		Ference No. RN101787885	THE STREET STREET
	nk	lia [Statute] Petroleum Storage Tank	THE STATE AND THE STATE OF THE
		coordinator James Nolan	a seed agency to the angle of the seed of
· ·		Rule Cite(s)	
	min. Code § 334.50(a)(1) and 334.50(b)(2)(A)(i)(III) and (ii)	30 Fex. Admi	
·			
	nethod of release detection capable of detecting a release from any		
	stem and failed to test or monitor the line leak detectors at least once nce and operational reliability, as documented during a record review		Violat
	investigation conducted on June 17, 2008.		
		K. A.	
·		·	
\$10,000	Base Penalty		
	Matrix	Property and Human Health Ma	>> Environmenta
		Harm	
	rate Minor	Release Major Modera	
		Actual	OR
	Percent 25%	Potential x	
	2. et assur jergiji	atrix	>>Programmatic
	rate Minor	Falsification Major Modera	
	Percent 0%		
1		CAN AN AN GOT THE WAY THE TANKEN WHICH WAS AN AN AN AN AN AN AND AND	
	or could be exposed to pollutants which would exceed levels that are	Human health or the environment will or	Matrix
16	h or environmental receptors as a result of the violation.		Notes
	Adjustment \$7,500	RANNE NAMED NA	
\$2,500	L		
	\$ 55, 14 min 8 mi \$25,200 min 8 min 12 min 1	3.3.650000	Violation Events
Salana da salan sala		-	
	Number of violation days	Number of Violation Events	
		daily	
		monthly x	*
\$2,500	Violation Base Penalty	mark only one quarterly	
		with an x semiannual	
•		annual	•
		single event	
	nded from the investigation date of June 17, 2008 to the date of compliance, July 1, 2008.	One monthly event is recommende	
	Compliance, July 1, 2008.		
*			0 15 W Est
\$250	0.0% Reduction  NOV NOV to EDPRP/Settlement Offer	to Comply 10.  Before NO	Good Faith Effort
		Extraordinary	
	×	Ordinary	
	(mark with x)	N/A	
	uly 1, 2008, the look detector was replaced and allegic		
	uly 1, 2008, the leak detector was replaced and a leak check was conducted on the UST.	Notes	
·			
\$2,250	Violation Subtotal		
ΨΖ,230	Violation Subtotal		30000000000000000000000000000000000000
	Statutory Limit Test	EB) for this violation	Economic Benefi
\$2,924	\$501 Violation Final Penalty Total	Estimated EB Amount	
<u>محر,۶۷4</u>	\$501 Violation Final Penalty Total	Lounated LD Attiount	
\$2,924	This violation Final Assessed Penalty (adjusted for limits)		

.Case ום No. .Reg. Ent. Reference No	36295 RN101787885					grapgonyagosyssayayayanigansamananayayoy	
Media Violation No.	Petroleum Stor 2	age Tank				Percent Interest	Years of Depreciation
						5.0	1:
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$	24. 1.12. 12. 12. 13. 13. 13. 13. 13. 13. 13. 13. 13. 13		distriction of the second	A SUM GARAGES		
Delayed Costs				16.333.70			
Equipment				0.00	\$0	so l	\$0
Buildings		1		0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction			11.15 (12/15) La 11	0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	Real District			0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs		6.57286.85.868.6		0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	17-Jun-2008	1-Jul-2008	0.04	\$2	n/a	\$2
	Estimated or	et to provide releas	a dataction for the	T TOLL	he Date Peguired	ie invoctigation date	and the Final
Notes for DELAYED costs			Date is th	e date of	compliance.	is investigation date	
Avoided Costs			Date is th	e date of	compliance:	one-time avoided c	osts)
Avoided Costs Disposal			Date is th	e date of	compliance: item (except for \$0	one-time avoided c	osts) \$0
Avoided Gosts Disposal Personnel			Date is th	entering 0.00	item (except for \$0 \$0	one-time avoided c	osts) \$0. \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling			Date is th	e date of entering 0.00 0.00 0.00	item (except for \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0	sots) \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment			Date is th	e date of 0.00 0.00 0.00 0.00	item (except for \$0 \$0 \$0 \$0 \$0	one-time avoided o	\$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]			Date is th	entering 0.00 0.00 0.00 0.00 0.00 0.00	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment			Date is th	e date of 0.00 0.00 0.00 0.00	item (except for \$0 \$0 \$0 \$0 \$0	one-time avoided o	sots) \$0 \$0 \$0 \$0

Screening Date		Docket	<b>No.</b> 2008-1159-PST-E	PCV	N.
	Gerene Ferguson			Policy Revision 2 (September 20	002)
Case ID No.				PCW Revision June 12, 2	2008
Reg. Ent. Reference No.					
ELEPTONICA DE LA CONTRA SE LA CONTRA SELACIONA SE LA CONTRA SE LA CONT	Petroleum Storage Tank				
Enf. Coordinator Violation Number					
Rule Cite(s)					
		30 Tex. Admin. Code § 37.	815(a) and (b)		
	Failed to demonstrate ac	cceptable financial assuran	ce for taking corrective actions operty damage caused by acci	and for	
Violation Description			UST, as documented during a		
	revie	ew investigation conducted	on June 17, 2008.		
no.		<u> </u>			
AAAAA			Rase	Penalty \$10,0	000
			Duse	Tenaty VIO,	300
>> Environmental, Property an		trix			
Release	Harm Major Moderate	e Minor			Ì
OR Actual	Iviajoi Ivioderate				. !
Potential			Percent 0%		l
			-		
>>Programmatic Matrix	Maias Madasak	Marie Ma			
Falsification	Major Moderate	Minor	Percent 10%	•	l
Social State Control	<u> </u>		t ercent 1078		1
\$4.X44.				Sir ica	
Matrix Notes	100% of 1	the rule requirement was no	ot met.		
Hotes					
				20.000	
			Adjustment	\$9,000	
				\$1,0	000
Violation Events					
Violation Events		A 1000		name to a	.
Number of Vio	olation Events 1		Number of violation days		.
			,		
	daily				
mark only one	monthly quarterly		Violation Base	Penalty \$1,0	200
with an x	semiannual	<u></u>	Violation Base	7 charty	
	annual				ļ
	single event x				
	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	TO THE SECOND TO SECOND	00,000,000,000,000,000,000,000,000,000	000000	
	One single ev	ent for the one UST is reco	mmended.		.
					-
		resta			_
Good Faith Efforts to Comply	0.0 Before NOV	Reduction  NOV to EDPRP/Settlement C	Offer		\$0
	Extraordinary Extraordinary	, NOVE LEINFOSTIGHTE			
	Ordinary				
	N/A ×	(mark with x)	×××	*	
	The Best	nondont doos not most the	good faith aritoria for this		
	Notes The Resp	pondent does not meet the violation.	good faith Chiteria (Of this		
		to the second se			ļ
			Violation S	Subtotal \$1,0	000
Economic Benefit (EB) for this	violation		Statutory Limit Test		
Estimated	d EB Amount	\$683	Violation Final Penal	Ity Total \$1,2	290
		This violation Final As	ssessed Penalty (adjusted fo	r limits) \$1,2	290
				ACCURACION NO CONTRACTOR ACCUSADO EN CONTRACTOR ACCUSADO EN CONTRACTOR ACCUSADO EN CONTRACTOR ACCUSADO EN CONT	0.000000

Case ID No. 3 Reg. Ent. Reference No. F Media F Violation No. 3 Item Description	RN101787885 Petroleum Stor	age Tank					1.1
Media F Violation No₄ 3	Petroleum Stor	age Tank					
	<b>3</b> 3244					Percent Interest	Years of
Item Description						i ercent interest	Depreciation
Item Description	.23 (2014) 137 (2014) 147 (2017)			ispain.		5.0	18
Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or \$						
o la como esta esperante en 1900 en 1860 de destrutor de la composição de destrutor de la composição de la com 	: THE THE LOCAL OF MORE RESIDENCE THE THE ALERE INC.	and the second state of th	CANADA MARINE TANAS		A	**********	
Delayed Costs				astalena			
Equipment	Elicate Analysis and Analysis			0.00	\$0	\$0	\$0
Buildings				0,00	\$0	\$0	\$0
Other (as needed)		V 7		0.00	\$0	\$0	\$0
Engineering/construction			Section of the section of	0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	100 K 10 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1			0.00	\$0	n/a	\$0
Training/Sampling	الماسم بمساور والمراجع والمراجع	107 and a field of the original of the control of t		0.00	\$0	n/a	\$0
Remediation/Disposal	uga galli e y ilgoi i .			0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	5/6	60
Notes for DELAYED costs		tra ve				n/a	\$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	ANI		ed costs before e	0.00 0.00 0.00	item (except for \$0 \$0 \$0 \$0	one-time avoided c	sosts) \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment		NUALIZE [1] avoide		0.00 0.00 0.00	item (except for \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0	sosts) \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	ANN 8650		ed costs before e 17-Jun-2008	0.00 0.00 0.00	item (except for \$0 \$0 \$0 \$0	one-time avoided c	sosts) \$0 \$0 \$0 \$0

relativ

### **Compliance History Report**

Customer/Respondent/Owner-Operator:

CN603376740

FERGUSON, GERENE

Classification: AVERAGE

Rating: 4.50

Regulated Entity:

RN101787885

AMAZIN GRAZIN

Classification: AVERAGE

Site Rating: 4.50

ID Number(s):

PETROLEUM STORAGE TANK

REGISTRATION

63033

REGISTRATION

Location:

9801 N FM 1264, LUBBOCK, TX, 79415

TCEQ Region:

**REGION 02 - LUBBOCK** 

Date Compliance History Prepared:

January 12, 2009

Agency Decision Requiring Compliance History:

Enforcement

Compliance Period:

August 14, 2003 to August 14, 2008

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

Name:

James Nolan

(512) 239-6634

#### **Site Compliance History Components**

1. Has the site been in existence and/or operation for the full five year compliance period?

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?

Country Depot, Ltd (

4. if Yes, who was/were the prior owner(s)?

5. When did the change(s) in ownership occur?

02/10/2006

Rating Date: 9/1/2008 Repeat Violator: NO

#### Components (Multimedia) for the Site:

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

Any criminal convictions of the state of Texas and the federal government. B.

C. Chronic excessive emissions events.

The approval dates of investigations. (CCEDS Inv. Track. No.) D.

02/25/2008

(615550)

03/31/2008

(640711)

06/19/2008

(683557)

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

Date: 02/25/2008

Classification:

Moderate

Self Citation:

30 TAC Chapter 334, SubChapter C 334.51(a)(6)

Description:

Failure of owner or operator to assure that all spill and overfill prevention devices installed

are maintained in good operating condition, and that such devices are inspected and

serviced in accordance with the manufacturers' specifications.

Self

Citation:

30 TAC Chapter 334, SubChapter C 334.49(b)(2)

Description:

Failure of owner to provide electrical isolation to prevent corrosion of metal components

and to allow for visual inspection of the submersible pump and its components by

removing excessive backfill from the manway of the submersible pump.

Date: 02/25/2008 (615550)

Self

Classification:

Moderate

Citation:

30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description:

Failure of owner/operator to amend, update, or change UST registration information

within 30 days of its occurrence.

Self Report?

30 TAC Chapter 334, SubChapter C 334.51(a)(6)

Citation: Description:

Failure of owner or operator to assure that all spill and overfill prevention devices installed are maintained in good operating condition, and that such devices are inspected and serviced in accordance with the manufacturers' specifications.

Self Report?

NO

Classification

Classification

Moderate

Citation:

30 TAC Chapter 334, SubChapter C 334.49(b)(2)

Description:

Failure of owner to provide electrical isolation to prevent corrosion of metal components and to allow for visual inspection of the submersible pump and its components by removing excessive backfill from the manway of the submersible

pump.

Self Report?

NO

Classification

Moderate

Citation:

30 TAC Chapter 334, SubChapter A 334.10(b)(1)(B)

Description:

Complete failure of owner/operator to submit records for investigation.

F. Environmental audits.

G. Type of environmental management systems (EMSs).

H. Voluntary on-site compliance assessment dates.

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
GERENE FERGUSON	§	
RN101787885	§	ENVIRONMENTAL QUALITY

### AGREED ORDER DOCKET NO. 2008-1159-PST-E

#### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Gerene Ferguson ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. J. Paul Manning of the law firm of Field, Manning, Stone, Hawthorne & Aycock, P.C., appear before the Commission and together stipulate that:

- 1. The Respondent owns property with an underground storage tank ("UST") at 9801 North Farm-to-Market Road 1264 in Lubbock, Lubbock County, Texas (the "Facility").
- 2. The Respondent's one UST is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 24, 2008.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent 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 Forty-Eight Dollars (\$5,748) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Five Hundred Ninety-Nine Dollars



(\$4,599) of the administrative penalty and One Thousand One Hundred Forty-Nine Dollars (\$1,149) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

- 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that the Respondent has completed the following corrective measures at the Facility:
  - a. On July 1, 2008, the leak detection system was replaced and a leak test was conducted on the UST; and
  - b. On July 30, 2008, all fuel was removed from the UST.
- 10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. 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.
- 12. 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

As owner of the Facility, the Respondent is alleged to have:

- 1. Failed to maintain required records pertaining to the UST system at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(1)(B), as documented during a record review investigation conducted on June 17, 2008.
- 2. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system and failed to test or monitor the line leak detectors at least once per year for performance and operational reliability, in violation of 30 Tex. ADMIN. CODE § 334.50(a)(1) and 334.50(b)(2)(A)(i)(III) and (ii), as documented during a record review investigation conducted on June 17, 2008.

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3. Failed to demonstrate acceptable financial assurance for taking corrective actions and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST, in violation of 30 Tex. ADMIN. CODE § 37.815(a) and (b), as documented during a record review investigation conducted on June 17, 2008.

#### III.DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Gerene Ferguson, Docket No. 2008-1159-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, begin to maintain the required records for the UST at the Facility, in accordance with 30 Tex. ADMIN. CODE § 334.10(b)(1)(B);
  - b. Within 30 days after the effective date of this Agreed Order, submit documentation that demonstrates acceptable financial assurance for taking corrective actions and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST, in accordance with 30 Tex. ADMIN. CODE § 37.815; and
  - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

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

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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."

The certification shall be submitted to:

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

with a copy to:

Waste Section, Manager Lubbock Regional Office Texas Commission on Environmental Quality 5012 50th Street, Suite 100 Lubbock, Texas 79414-3421

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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.

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Gerene Ferguson DOCKET NO. 2008-1159-PST-E Page 5

8. Under 30 Tex. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	1/23/2009 Date
attached Agreed Order on behalf of the entity	the attached Agreed Order. I am authorized to agree to the y indicated below my signature, and I do agree to the terms acknowledge that the TCEQ, in accepting payment for the representation.
timely pay the penalty amount, may result in:  A negative impact on compliance hist Greater scrutiny of any permit applicated Referral of this case to the Attorney penalties, and/or attorney fees, or to a lincreased penalties in any future enformation. Automatic referral to the Attorney Getail TCEQ seeking other relief as authorized.	tory; ations submitted; General's Office for contempt, injunctive relief, additional collection agency; reement actions; eneral's Office of any future enforcement actions; and
OULINI FULLION Signature Gerene Ferguson	11-18-05 Date
Name (Printed of typed) Authorized Representative of Gerene Ferguson	<u>οωη er</u> Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.