

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0603-PST-E TCEQ ID: RN102253242 CASE NO.: 20720
RESPONDENT NAME: DAHISAR BUSINESS, INC. DBA HONEY STOP 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" 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

SITE WHERE VIOLATION(S) OCCURRED: 1012 Park Avenue, Orange, Orange County, Texas

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 23, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Air Enforcement Section, MC 149, (512) 239-2134

TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 899-8705

Respondent: Mr. Shamim Momin, Director, Dahisar Business, Inc., 7924 Willowood Ln., #1503, Port Arthur, Texas 77642

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" 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: January 23, 2006</p> <p>Date of NOE Relating to this Case: March 24, 2006</p> <p>Background Facts: The EDPRP was filed on October 10, 2006. The EDFARP was filed on August 29, 2007 and re-filed on May 14, 2008. The wrappers sent by certified mail were unclaimed, but the first class mail was not returned. The Notice of Intent to Shutdown the USTs was filed on July 3, 2008. No answer has been filed.</p> <p>Current Compliance Status: 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 in question. [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 underground storage tank ("UST") system which contains regulated substances including the tanks, piping, and other underground ancillary equipment, and failed to conduct effective manual or automatic inventory control procedures [30 TEX. ADMIN. CODE §§ 334.50 (a)(1)(A), and 334.48(c), TEX. WATER CODE § 26.3475(a) and (c)(1), and TCEQ Agreed Order Docket No. 2004-1641-PST-E, Ordering Provision nos. 2.a. and 2.b.i.].</p>	<p>Total Assessed: \$37,500</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 Due to General Revenue: \$37,500</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately upon the effective date of this Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately take the following steps to shut down operations of all non-compliant USTs at the Facility: <ol style="list-style-type: none"> Cease dispensing fuel from the USTs; Cease receiving deliveries of regulated substances into the USTs; Padlock the dispensers; Empty the USTs of all regulated substances; and Temporarily remove the USTs from service. Within 10 days, send its UST delivery certificate to TCEQ. Within 15 days, submit a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 2. If Respondent elects to permanently remove from service any USTs at the Facility, the Respondent shall submit a written report to TCEQ documenting compliance. Prior to receiving deliveries of gasoline: <ol style="list-style-type: none"> Install or implement a method of release detection for the UST system; Submit the required financial; and Obtain a new delivery certificate from the TCEQ. Prior to resuming retail sales of gasoline, begin conducting effective manual or automatic inventory control procedures for all USTs. Within 10 days of resuming retail sales of gasoline, submit written certification to demonstrate compliance with ordering provisions 5 and 6. Upon obtaining a new delivery certificate, post the delivery certificate in a location where the document is clearly visible at all times. Respondent's USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that it has corrected all violations.

3. Failed 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 UST's [30 TEX. ADMIN. CODE § 37.815(a) and (b)].

4. Failed to maintain a record at the Station of the dates on which gasoline was delivered to the dispensing facility. [30 TEX. ADMIN. CODE § 115.226(1)].



Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

DATES	Assigned	18-Apr-2006	Screening	18-Apr-2006	EPA Due	
	PCW	08-Jun-2006				

RESPONDENT/FACILITY INFORMATION			
Respondent	Dahisar Business, Inc. dba Honey Stop 2		
Reg. Ent. Ref. No.	RN102253242		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	20720	No. of Violations	4
Docket No.	2006-0603-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Sandy VanCleave
Multi-Media		EC's Team	Order Compliance
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 50% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

	<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>
Extraordinary		
Ordinary		
N/A	X	<small>(mark with a small x)</small>

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	\$2,196	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$3,750	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 0% Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date	18-Apr-2006	Docket No.	2006-0603-PST-E	PCW
Respondent	Dahisar Business, Inc. dba Honey Stop 2		Policy Revision 2 (September 2002)	
Case ID No.	20720	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN102253242			
Media/Statute	Petroleum Storage Tank			
Ent. Coordinator	Sandy VanCleave			

Compliance History Worksheet

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

Adjustment Percentage (Subtotal 3) 0%

Adjustment Percentage (Subtotal 7) 10%

Compliance History Notes The respondent is classified as a Poor Performer. Additionally, the respondent received two prior agreed final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

Screening Date 18-Apr-2006 **Docket No.** 2006-0603-PST-E **PCW**
Respondent Dahisar Business, Inc. dba Honey Stop 2 *Policy Revision 2 (September 2002)*
Case ID No. 20720 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102253242
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Sandy VanCleave
Violation Number 1

Primary Rule Cite(s) TCEQ Agreed Order Docket No. 2004-1641-PST-E, Ordering Provision Nos. 2.a. and 2.b.i. and 30 Tex. Admin. Code § 334.50(a)(1)(A) and 334.48(c)
Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and (c)(1)
Violation Description Failure to provide a release detection method capable of detecting a release from any portion of the underground storage tank ("UST") system which contains regulated substances including the tanks, piping, and other underground ancillary equipment as ordered by Ordering Provision No. 2.b.i. of Agreed Order Docket No. 2004-1641-PST-E effective on August 20, 2005. Failure to conduct effective manual or automatic inventory control procedures in accordance with 30 Tex. Admin. Code § 334.50(d)(1)(B) as ordered by Ordering Provision No. 2.a. of Agreed Order Docket No. 2004-1641-PST-E effective on August 20, 2005. During the investigation, it was documented that the respondent did not have any release detection method and was not conducting any inventory control procedures.

Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent <input type="text" value="25%"/>
	Potential	X			

>> **Programmatic Matrix**

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

Matrix Notes Failure to monitor the UST system for possible releases and conduct inventory control 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

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	X
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty \$20,000

Eight monthly events are recommended based on the Order effective date of August 20, 2005 to the April 18, 2006 enforcement screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount \$143

Statutory Limit Test

Violation Final Penalty Total \$30,000

This violation Final Assessed Penalty (adjusted for limits) \$30,000

Economic Benefit Worksheet

Respondent Dahisar Business, Inc. dba Honey Stop 2
 Case ID No. 20720
 Reg. Ent. Reference No. RN102253242
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	20-Aug-2005	31-Dec-2006	1.4	\$7	\$136	\$143
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 and to begin conducting inventory control procedures. The date required is the Agreed Order Docket No. 2004-1641-PST-E effective 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 \$1,500 TOTAL \$143

Screening Date 18-Apr-2006

Docket No. 2006-0603-PST-E

PCW

Respondent Dahisar Business, Inc. dba Honey Stop 2

Policy Revision 2 (September 2002)

Case ID No. 20720

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102253242

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

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 Dahisar Business, Inc. dba Honey Stop 2
 Case ID No. 20720
 Reg. Ent. Reference No. RN102253242
 Media [Statute] Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,950	23-Jan-2005	23-Jan-2006	1.0	\$98	\$1,950	\$2,048
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated cost to provide financial assurance for three USTs. Date required is one year prior to the investigation date and final date is the date of investigation.

Approx. Cost of Compliance **\$1,950**

TOTAL \$2,048

Screening Date 18-Apr-2006 **Docket No.** 2006-0603-PST-E **PCW**
Respondent Dahisar Business, Inc. dba Honey Stop 2 *Policy Revision 2 (September 2002)*
Case ID No. 20720 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102253242
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Sandy VanCleave
Violation Number 3
Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)
Secondary Rule Cite(s)
Violation Description Failure 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 September 30, 2005.

Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes The respondent failed to comply with 100% of the rule requirement.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$1,000

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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

Economic Benefit Worksheet

Respondent Dahisar Business, Inc. dba Honey Stop 2
 Case ID No. 20720
 Reg. Ent. Reference No. RN102253242
 Media [Statute] 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
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	31-Aug-2005	02-Feb-2006	0.4	\$4	n/a	\$4

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 certificate expiration date and the final date is the date the respondent returned to 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 **\$4**

Screening Date 18-Apr-2006 **Docket No.** 2006-0603-PST-E **PCW**
Respondent Dahisar Business, Inc. dba Honey Stop 2 *Policy Revision 2 (September 2002)*
Case ID No. 20720 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102253242
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Sandy VanCleave
Violation Number 4
Primary Rule Cite(s) 30 Tex. Admin. Code § 115.226(1)
Secondary Rule Cite(s)
Violation Description Failure to maintain a record at the facility site of the dates on which gasoline was delivered to the dispensing facility. Specifically, during the investigation, it was documented that the respondent did not have any gasoline delivery records available during the investigation.
Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	Percent
OR	Actual				
	Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			

Matrix Notes The respondent failed to comply with 100% of the rule requirement.

Adjustment -\$9,000
Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1
mark only one use a small x
 daily
 monthly
 quarterly
 semiannual
 annual
 single event X

Violation Base Penalty \$1,000

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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

Economic Benefit Worksheet

Respondent Dahisar Business, Inc. dba Honey Stop 2
 Case ID No. 20720
 Reg. Ent. Reference No. RN102253242
 Media [Statute] 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
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-Jan-2006	03-May-2006	0.3	\$1	n/a	\$1
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 records of the dates on which gasoline was delivered to the dispensing facility at the facility site. The date required is the investigation date and the final date is the date the respondent returned to 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 **\$1**

Compliance History

Customer/Respondent/Owner-Operator: CN60277571 Dahisar Business, Inc. dba Honey Stop 2 Classification: POOR Rating: 78.75
 Regulated Entity: RN102253242 HONEY STOP 2 Classification: POOR Site Rating: 78.75
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 24455
 Location: 1012 W PARK AVE, ORANGE, TX, 77630 Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT
 Date Compliance History Prepared: May 26, 2006
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 26, 2001 to May 26, 2006

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

Name: Jaime Garza Phone: (956) 430-6030

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A Effective Date: 06/12/2003 ADMINORDER 2002-0909-PST-E
 Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(3)
 5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to perform the Full System (5 year) Vapor Recovery Test at the station.
 Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)[G]
 Description: Failure to maintain the vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system to reduce refueling vapors.

Effective Date: 08/20/2005 ADMINORDER 2004-1641-PST-E
 Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)
 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: Failure to reconcile inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flowthrough for the month plus 130 gallons.
 Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
 30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)

Description: Failure to test a line leak detector at least once per year for performance and operational reliability.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
 30 TAC Chapter 334, SubChapter C 334.50(b)(2)[G]

Description: Failure to perform a tightness test for pressurized, suction, and/or gravity piping.
 Classification: Moderate

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

Description: Failure to maintain a copy of the applicable California Air Resource Board (CARB) Executive Order.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)
 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failure to provide proper release detection for the UST system.

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 05/01/2002 (IE0018272001002)
N/A

2 08/15/2002 (7199)

3 09/16/2004 (284536)

4 03/24/2006 (452449)

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

N/A

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
DAHISAR BUSINESS, INC. DBA
HONEY STOP 2;
RN102253242**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2006-0603-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting entry of an Order requiring the respondent, Dahisar Business, Inc. dba Honey Stop 2 ("Dahisar"), to shutdown or remove from service the Underground Storage Tanks ("USTs") at the Honey Stop 2, located at 1012 Park Avenue, Orange, Orange County, Texas.

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

FINDINGS OF FACT

1. Dahisar owns and operates a convenience store with retail sales of gasoline, located at 1012 Park Avenue, Orange, Orange County, Texas (the "Station").
2. The USTs at the Station contain regulated substances as defined in the Commission's rules. The USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. On January 23, 2006, an investigator from the TCEQ Beaumont Regional Office documented that Dahisar:

- a. 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 September 30, 2005.
 - b. Failed to provide a release detection method capable of detecting a release from any portion of the underground storage tank ("UST") system which contains regulated substances including the tanks, piping, and other underground ancillary equipment as ordered by Ordering Provision No. 2.b.i. of Agreed Order Docket No. 2004-1641-PST-E effective on August 20, 2005; and failed to conduct effective manual or automatic inventory control procedures in accordance with 30 TEX. ADMIN. CODE § 334.50(d)(1)(B) as ordered by Ordering Provisions 2.a. of Agreed Order Docket No. 2004-1641-PST-E effective on August 20, 2005. During the investigation, it was documented that the respondent did not have any release detection method and was not conducting any inventory control procedures.
 - c. Failed 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 UST's.
 - d. Failed to maintain a record at the Station of the dates on which gasoline was delivered to the dispensing facility. Specifically, during the investigation, it was documented that the respondent did not have any gasoline delivery records available during the investigation.
4. By letter dated March 24, 2006, the TCEQ Beaumont Regional Office provided Dahisar with notice of the violations and the TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, and corrosion protection regulations if the violations were not corrected.
 5. Dahisar received notice of the violations on or about March 29, 2006.
 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 Dahisar Business, Inc. dba Honey Stop 2" (the "EDPRP") in the TCEQ Chief Clerk's office on October 10, 2006.

7. By letter dated October 10, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Dahisar with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail was also returned, indicating that Dahisar did not receive notice of the EDPRP.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Dahisar Business, Inc. dba Honey Stop 2" (the "EDFARP") in the TCEQ Chief Clerk's office on May 14, 2008.
9. By letter dated May 14, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Dahisar with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not returned, indicating that Dahisar received notice of the EDFARP.
10. More than 20 days have elapsed since Dahisar received notice of the EDPRP and EDFARP, provided by the Executive Director. Dahisar failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.
11. By letter dated July 3, 2008, TCEQ provided Dahisar with notice of TCEQ's intent to order the USTs at the Station shut down and removed from service if Dahisar failed to correct the release detection violation within 30 days after Dahisar's receipt of the notice.
12. As of the date of entry of this Order, Dahisar has not corrected the violations noted during the July 23, 2006, investigation.
13. The USTs at the Station do not have release detection as required by 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Dahisar's USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.

2. As evidenced by Finding of Fact Number 3.a., Dahisar violated 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.
3. As evidenced by Finding of Fact Number 3.b., Dahisar violated 30 TEX. ADMIN. CODE §§ 334.50 (a)(1)(A) and 334.48(c), TEX. WATER CODE § 26.3475(a) and (c)(1), and TCEQ Agreed Order Docket No. 2004-1641-PST-E, Ordering Provision 2.b.i., by failing to provide a release detection method capable of detecting a release from any portion of the underground storage tank ("UST") system which contains regulated substances including the tanks, piping, and other underground ancillary equipment, and by failing to conduct effective manual or automatic inventory control procedures.
4. As evidenced by Finding of Fact Number 3.c., Dahisar violated 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing 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 USTs.
5. As evidenced by Finding of Fact Number 3.d., Dahisar violated 30 TEX. ADMIN. CODE § 115.226(1) by failing to maintain a record at the Station of the dates on which gasoline was delivered to the dispensing facility.
6. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director has timely served Dahisar with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
7. As evidenced by Finding of Fact No. 10, Dahisar has failed to file a timely answer, 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 Dahisar and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Dahisar 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.

9. An administrative penalty in the amount of thirty-seven thousand five hundred dollars (\$37,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. As evidenced by Finding of Fact No. 12, Dahisar failed to correct documented violations of Commission requirements within 30 days after Dahisar received notice of the violations and notice of the Executive Director's intent to shut down the Station.
11. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overfill protection for tanks, corrosion protection for tanks and piping, and/or acceptable financial assurance.
12. 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.
13. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Dahisar's UST delivery certificate if the Commission finds that good cause exists.
14. Good cause for revocation of Dahisar's UST delivery certificate exists as justified by Findings of Fact Nos. 8, 9 and 10, and Conclusions of Law Nos. 6 and 7.
15. As evidenced by Finding of Fact Number 13, current conditions at the Station constitute an imminent peril to public health, safety and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, Dahisar shall take the following steps to shut down operations of all USTs at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;

- c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. Dahisar's UST delivery certificate is revoked immediately upon the effective date of this Order. Dahisar may submit an application for a new delivery certificate only after Dahisar has complied with all of the requirements set forth in these Ordering Provisions.
 3. Within 10 days after the effective date of this Order, Dahisar shall send its UST delivery certificate to:

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

4. Within 15 days after the effective date of this Order, Dahisar shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 3. Dahisar shall submit the report to:

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

and

Derek Eades, Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

5. If Dahisar elects to permanently remove from service any USTs at the Station, Dahisar shall immediately and permanently remove the UST system in accordance with 30 TEX. ADMIN. CODE § 334.55. If Dahisar permanently removes any portion of the UST system from service, Dahisar shall, within 15 days after the effective date of this order, submit to the Commission a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55. Dahisar shall submit the written report to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Dahisar is assessed an administrative penalty in the amount of thirty-seven thousand five hundred dollars (\$37,500.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Dahisar's compliance with all the terms and conditions set forth in this Order completely resolve only 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: Dahisar Business, Inc. dba Honey Stop 2; Docket No. 2006-0603-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

7. Dahisar's USTs shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provision Nos. 1.a. through 1.e., until such time as Dahisar demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Finding of Fact Nos. 3.a through 3.d and Conclusion of Law Nos. 2 through 5 as listed herein.
8. Prior to receiving deliveries of gasoline, Dahisar shall:
 - a. Install or implement a method of release detection for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.50;

- b. Submit the required financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs for the Station, in accordance with TEX. ADMIN. CODE § 37.815(a) and (b); and
 - c. Dahisar shall obtain a new delivery certificate from the TCEQ.
9. Prior to resuming retail sales of gasoline, Dahisar shall begin conducting effective manual or automatic inventory control procedures, in accordance with 30 TEX. ADMIN. CODE § 334.48(c).
 10. Within 10 days of resuming retail sales of gasoline, Dahisar shall submit written certification as described below, and include detailed supporting documentation including photographs, and/or other records to demonstrate compliance with Ordering Provision Nos. 8.a. through 9.

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.”

The certification and correspondence, reports, and documentation required by these Ordering Provisions shall be submitted to:

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

and

Derek Eades, Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

11. Upon obtaining a new delivery certificate, Dahisar shall post the delivery certificate in a location where the document is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. All relief not expressly granted in this Order is denied.
13. The provisions of this Order shall apply to and be binding upon Dahisar, and Dahisar is ordered to give notice of this Order to personnel who maintain day to day control of the USTs at the Station.
14. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Dahisar if the Executive Director determines that Dahisar is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
15. This Order shall terminate five years from its effective date or when Dahisar demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein.
16. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

Dahisar Business, Inc. dba Honey Stop 2
TCEQ Docket No. 2006-0603-PST-E
Page 10

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JACQUELYN BOUTWELL

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Jacquelyn Boutwell. 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 Dahisar Business, Inc. dba Honey Stop 2” (the “EDPRP”) was filed with the Office of the Chief Clerk on October 10, 2006.

The EDPRP was mailed to Dahisar at its last known address on October 10, 2006, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first-class mail was returned, indicating that Dahisar did not receive notice of the EDPRP.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Dahisar Business, Inc. dba Honey Stop 2” (the EDFARP”) was filed with the Office of the Chief Clerk on May 14, 2008.

The EDFARP was mailed to Dahisar at its last known address on May 14, 2008, via certified mail, return receipt requested, and via first-class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first-class mail was not returned, indicating that Dahisar received notice of the EDFARP.

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

By letter dated July 3, 2008, sent via first class mail and certified mail, return receipt requested article no. 91 1708 2133 3935 1891 0736, I provided Dahisar with notice of the TCEQ’s intent to order the USTs at the Station shut down and removed from service if the violations pertaining to release detection and financial assurance were not corrected within 30 days of Dahisar’s receipt of the letter.

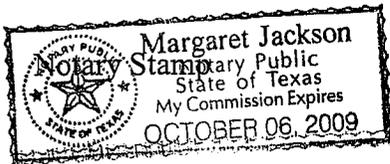
As of the date of this affidavit, I am not aware of any evidence that indicates that Dahisar has corrected the violations noted during the July 23, 2006, investigation.”



Jacquelyn Boutwell, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, 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 22 day of January A.D., 2009.





Notary Signature