

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0280-PST-E TCEQ ID: RN101906188 CASE NO.: 35406
RESPONDENT NAME: HUONG TRAN

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2605 Avenue A, Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Property with out of service underground storage tanks</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 expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired October 20, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789 TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 899-8705 Respondent: Ms. Huong Tran, 325 E. Church, Beaumont, Texas 77705 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: December 19, 2007</p> <p>Date of NOE Relating to this Case: January 28, 2008</p> <p>Background Facts: The EDPRP was filed April 15, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on April 22, 2008, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PST: Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, four USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters and did not exceed .3% by weight of the system at full capacity; and failed to maintain all piping, pumps, mainways, tank access points, and ancillary equipment in a capped, plugged, locked, or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(b) and (d)(2)].</p>	<p>Total Assessed: \$21,000</p> <p>Total Deferred: \$0 <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: \$21,000</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 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>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 10 days, send her UST delivery certificate to TCEQ. 2. Within 30 days, permanently remove the UST system from service. 3. Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision January 29, 2008

TCEQ DATES	Assigned	5-Feb-2008	Screening	14-Feb-2008	EPA Due	
	PCW	13-Feb-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Huong Tran		
Reg. Ent. Ref. No.	RN101906188		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35406	No. of Violations	1
Docket No.	2008-0280-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Philip DeFrancesco
Multi-Media		EC's Team	Enforcement Team 6
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 5% Enhancement *Subtotals 2, 3, & 7*

Notes

Culpability No 0% Enhancement *Subtotal 4*

Notes

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

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

Notes

Total EB Amounts \$4,892 0% Enhancement* *Subtotal 6*

Approx. Cost of Compliance	\$10,000
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*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL 0% Reduction *Adjustment*

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

Notes

PAYABLE PENALTY

Screening Date 14-Feb-2008

Docket No. 2008-0280-PST-E

PCW

Respondent Huong Tran

Policy Revision 2 (September 2002)

Case ID No. 35406

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101906188

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip DeFrancesco

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

<p>Screening Date 14-Feb-2008</p> <p>Respondent Huong Tran</p> <p>Case ID No. 35406</p> <p>Reg. Ent. Reference No. RN101906188</p> <p>Media [Statute] Petroleum Storage Tank</p> <p>Enf. Coordinator Philip DeFrancesco</p> <p>Violation Number <input type="text" value="1"/></p> <p>Rule Cite(s) <input type="text" value="30 Tex. Admin. Code §§ 334.47(a)(2), 334.54(b), and 334.54(d)(2)"/></p> <p>Violation Description</p> <div style="border: 1px solid black; padding: 5px;"> <p>Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, four USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. Also, failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity. Also failed to maintain all piping, pump, manways, tank access point, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the fill pipes were not locked.</p> </div>	<p style="text-align: right;">Docket No. 2008-0280-PST-E</p> <p style="text-align: right;">PCW</p> <p style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision January 29, 2008</p> <p style="text-align: right;">Base Penalty <input type="text" value="\$10,000"/></p>																			
>> Environmental, Property and Human Health Matrix																				
<p>OR</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:10%;"></th> <th colspan="3" style="text-align: center;">Harm</th> <th style="width:10%;"></th> </tr> <tr> <th style="text-align: left;">Release</th> <th style="text-align: center;">Major</th> <th style="text-align: center;">Moderate</th> <th style="text-align: center;">Minor</th> <th></th> </tr> </thead> <tbody> <tr> <td style="text-align: left;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="25%"/></td> </tr> <tr> <td style="text-align: left;">Potential</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </tbody> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>	Potential	x	<input type="text"/>	<input type="text"/>	
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Falsification	Major	Moderate	Minor																	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="0%"/>															
Violation Events																				
<p>Number of Violation Events <input type="text" value="8"/></p> <p>Number of violation days <input type="text" value="57"/></p> <p><i>mark only one with an x</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:10%;">daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td style="text-align: center;">x</td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table> <p style="text-align: right;">Violation Base Penalty <input type="text" value="\$20,000"/></p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Eight monthly events (two months per UST) are recommended from the December 19, 2007 investigation date to the February 14, 2008 screening date.</p> </div>	daily	<input type="text"/>	monthly	x	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>								
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semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	<input type="text"/>																			
Economic Benefit (EB) for this violation																				
<p>Estimated EB Amount <input type="text" value="\$4,892"/></p>	<p style="text-align: center;">Statutory Limit Test</p> <p>Violation Final Penalty Total <input type="text" value="\$21,000"/></p> <p>This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$21,000"/></p>																			

Economic Benefit Worksheet

Respondent Huong Tran
Case ID No. 35406
Reg. Ent. Reference No. RN101906188
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				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)	\$10,000	22-Dec-1998	1-Oct-2008	9.8	\$4,892	n/a	\$4,892

Notes for DELAYED costs

Estimated cost to permanently remove the UST system from service. The date required is the date when the Respondent was required to upgrade the UST system and the final date is based on the estimated compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$4,892

Compliance History

Customer/Respondent/Owner-Operator:	CN601041346 TRAN, HUONG	Classification: AVERAGE	Rating: 4.50
Regulated Entity:	RN101906188 TRANS GROCERY	Classification: AVERAGE	Site Rating: 4.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	63136
Location:	2624 AVENUE A, BEAUMONT, TX, 77701	Rating Date: 9/1/2007	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	February 27, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 27, 2003 to February 27, 2008		

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

Name: Philip DeFrancesco Phone: (817) 588-5933

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - 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 12/22/2006 (533769)
 - 2 01/28/2008 (614293)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 12/22/2006 (533769) Classification: Moderate
 - Self Report? NO
 - Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
 - Description: Failure to permanently remove USTs from service.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter C 334.54(d)(2)
 - Description: Failure to ensure any residue from stored regulated substances which remain in a temporarily out of service UST shall not exceed 2.5 centimeters at the deepest point and shall not exceed 0.3 percent by weight of the system at full capacity.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)
 - Description: Failure to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.
 - 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
HUONG TRAN,
RN101906188**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0280-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty, and corrective action of the respondent. The respondent made the subject of this Order is Huong Tran ("Ms. Tran").

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

FINDINGS OF FACT

1. Ms. Tran owns property with out of service underground petroleum storage tanks located at 2605 Avenue A, Beaumont, Jefferson County, Texas (the "Facility").
2. Ms. Tran's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Ms. Tran's USTs contain a regulated substance as defined in the rules of the Commission.
3. During an inspection on December 19, 2007, a TCEQ Beaumont Regional Office investigator documented that Ms. Tran failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, four USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. Also, Ms. Tran failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters and did not exceed .3% by weight of the system at full capacity. Also, Ms. Tran failed to maintain all piping, pumps, mainways, tank access points, and ancillary equipment in a capped, plugged, locked, or otherwise secured manner to prevent

access, tampering, or vandalism by unauthorized persons. Specifically, the fill pipes were not locked.

4. Ms. Tran received notice of the violation on or about February 2, 2008.
5. 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 Huong Tran" (the "EDPRP") in the TCEQ Chief Clerk's office on April 15, 2008.
6. By letter dated April 15, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Tran with notice of the EDPRP. According to the return receipt "green card," Ms. Tran received notice of the EDPRP on April 22, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Ms. Tran received notice of the EDPRP, provided by the Executive Director. Ms. Tran failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Tran is subject to the jurisdiction of the TCEQ pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Ms. Tran failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, four USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters and did not exceed .3% by weight of the system at full capacity; and failed to maintain all piping, pumps, mainways, tank access points, and ancillary equipment in a capped, plugged, locked, or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons., in violation of 30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(b) and (d)(2).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Ms. Tran with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

4. As evidenced by Finding of Fact No. 7, Ms. Tran has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Ms. Tran and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Ms. Tran 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.
6. An administrative penalty in the amount of twenty one thousand dollars (\$21,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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.
8. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Ms. Tran's UST delivery certificate if the Commission finds that good cause exists.
9. Good cause for revocation of Ms. Tran's UST delivery certificate exists as justified by Findings of Fact Nos. 5, 6, and 7; and Conclusions of Law Nos. 2, 3, and 4.

ORDERING PROVISIONS

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

1. Ms. Tran is assessed an administrative penalty in the amount of twenty one thousand dollars (\$21,000.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Ms. Tran's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Huong Tran; Docket No. 2008-0280-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. Ms. Tran's UST delivery certificate is revoked immediately upon the effective date of this Order. Ms. Tran may submit an application for a new delivery certificate only after Ms. Tran has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Ms. Tran shall send her 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. Ms. Tran shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and
 - b. Within 45 days after the effective date of this 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 No. 4.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."

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
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1830

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Ms. Tran. Ms. Tran is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Tran shall be made in writing to the Executive Director. Extensions are not effective until Ms. Tran receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Ms. Tran if the Executive Director determines that Ms. Tran has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BENJAMIN O. THOMPSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Benjamin O. Thompson. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Huong Tran" (the "EDPRP") with the Office of the Chief Clerk on April 15, 2008.

I sent the EDPRP to Ms. Tran at her last known address on April 15, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Ms. Tran received notice of the EDPRP on April 22, 2008, as evidenced by the signature on the card.

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



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Benjamin O. Thompson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 26th day of August, A.D., 2008.



Notary Stamp