

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1005-PST-E TCEQ ID: RN101663771 CASE NO.: 36083

RESPONDENT NAME: REDDY-GATOR, INC. AND SWATI HOLDING, COMPANY DBA GATOR STOP 3

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 VIOLATIONS OCCURRED: 16074 Interstate Highway 35 South, Ross, McLennan County

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 expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired May 18, 2009. No comments were received.

CONTACTS AND MAILING LIST:

- TCEQ Attorney:** Ms. Stephanie Frazee, Litigation Division, MC 175, (512) 239-3693
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
- TCEQ Enforcement Coordinator:** Mr. Wallace Myers, Waste Enforcement Section, MC 128, (512) 239-6580
- TCEQ Regional Contact:** Mr. Frank Burlison, Waco Regional Office, R-9, (254) 761-3001
- Respondent:** Mr. Shujat Ali Swati, Director and President, Reddy-Gator, Inc. and Swati Holding, Company,
8146 Ninth Avenue, Port Arthur, TX 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 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: April 25, 2008</p> <p>Date of NOE Relating to this Case: June 2, 2008</p> <p>Background Facts: The EDPRP was filed November 21, 2008, and mailed to each Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on November 28, 2008, as evidenced by the signatures on the cards. A Notice of Intent ("NOI") to Shut Down the USTs at the Station was filed January 21, 2009, and mailed to each Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," the Respondents received the NOI on January 23, 2009, as evidenced by the signature on the card. The Respondents failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>According to public information reports filed with the Texas Secretary of State, the Respondents share a common single principal and registered agent, and accept service at the same address in Port Arthur, Texas.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PST:</p> <p>1. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2. Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</p>	<p>Total Assessed: \$17,850</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$17,850</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondents' delivery certificate is revoked immediately. The Respondents may submit an application for a new delivery certificate only after certifying compliance with all the terms and conditions of the Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately, take the following steps to shut down operations of all USTs at the Facility: <ol style="list-style-type: none"> 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; and e. Temporarily remove the USTs from service. 2. Within 10 days, surrender their UST delivery certificate to the TCEQ. 3. Within 15 days, submit a detailed written report documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 2. 4. Respondents USTs shall remain out of service until all violations have been corrected. 5. Prior to receiving deliveries of gasoline and resuming sales of gasoline: <ol style="list-style-type: none"> a. Install and implement a release detection method for all USTs at the Station; b. Begin recording volume measurements and reconciliation for inventory control records c. Begin conducting proper inventory control procedures for all USTs; d. Repair or replace the stage 1 vapor recovery valve on the diesel tanks; and e. Obtain a new delivery certificate. 6. Within 10 days after resuming service, submit written certification to demonstrate compliance with Ordering Provision No. 5. 7. Upon obtaining a new delivery certificate, post the delivery certificate in a location where the document is clearly visible at all times.

3. Failed to provide release detection by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE §§ 334.50(d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].

4. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST at the facility according to the UST Registration and Self-Certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].

5. Failed to conduct inspections for liquid leaks, visible vapors, or significant odors resulting from gasoline transfer [30 TEX. ADMIN. CODE § 115.224(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

8. If the Respondents elect to permanently remove from service any USTs or any portion of the UST system at the Station, immediately and permanently remove the UST system in accordance with 30 TEX. ADMIN. CODE § 334.55, and submit a written report demonstrating compliance within 15 days.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	9-Jun-2008	Screening	18-Jun-2008	EPA Due	
	PCW	13-Oct-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3
Reg. Ent. Ref. No.	RN101663771
Facility/Site Region	9-Waco
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36083	No. of Violations	5
Docket No.	2008-1005-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Wallace Myers
		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	\$17,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	2.0% Enhancement	Subtotals 2, 3, & 7	\$350
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Notes: Enhancement for one NOV without same or similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$92
Approx. Cost of Compliance	\$2,700

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,850
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$17,850
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,850
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$17,850
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Screening Date 18-Jun-2008

Docket No. 2008-1005-PST-E

PCW

Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gat

Policy Revision 2 (September 2002)

Case ID No. 36083

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101663771

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	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 <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 submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> **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 without same or similar violations.

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

Screening Date 18-Jun-2008	Docket No. 2008-1005-PST-E	PCW			
Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 36083	<i>PCW Revision June 12, 2008</i>				
Reg. Ent. Reference No. RN101663771					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Wallace Myers					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	<input style="width:100%;" type="text" value="30 Tex. Admin. Code § 334.10(b)"/>				
Violation Description	<input style="width:100%; height: 50px;" type="text" value="Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel."/>				
Base Penalty		<input style="width:100%;" type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
		Percent	<input style="width:100%;" type="text" value="0%"/>		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		Percent	<input style="width:100%;" type="text" value="25%"/>		
Matrix Notes	<input style="width:100%; height: 30px;" type="text" value="100% of the rule requirement was not met."/>				
		Adjustment	<input style="width:100%;" type="text" value="\$7,500"/>		
		<input style="width:100%;" type="text" value="\$2,500"/>			
Violation Events					
Number of Violation Events		<input style="width:100%;" type="text" value="1"/>		Number of violation days	
		<input style="width:100%;" type="text" value="3"/>			
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input style="width:100%;" type="text" value="\$2,500"/>	
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="text" value="x"/>			
<input style="width:100%; height: 30px;" type="text" value="One single event is recommended based on documentation of the violation during the April 25, 2008 investigation."/>					
Good Faith Efforts to Comply		0.0% Reduction		<input style="width:100%;" type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>		<input type="text"/>		
Ordinary	<input type="text"/>		<input type="text"/>		
N/A	<input checked="" type="text" value="x"/>		<input type="text" value="(mark with x)"/>		
Notes	<input style="width:100%; height: 30px;" type="text" value="The Respondent does not meet the good faith criteria for this violation."/>				
		Violation Subtotal <input style="width:100%;" type="text" value="\$2,500"/>			
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input style="width:100%;" type="text" value="\$0"/>		Violation Final Penalty Total <input style="width:100%;" type="text" value="\$2,550"/>	
				This violation Final Assessed Penalty (adjusted for limits) <input style="width:100%;" type="text" value="\$2,550"/>	

Economic Benefit Worksheet

Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3
Case ID No. 36083
Reg. Ent. Reference No. RN101663771
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
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				0.00	\$0	n/a	\$0
Record Keeping System	\$500	25-Apr-2008	28-Apr-2008	0.01	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to maintain UST records. The date required is the date of the investigation and the final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				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

Approx. Cost of Compliance \$500 **TOTAL** \$0

Screening Date 18-Jun-2008		Docket No. 2008-1005-PST-E		PCW	
Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36083		<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN101663771					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Wallace Myers					
Violation Number		<input type="text" value="2"/>			
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code § 334.48(c)"/>			
Violation Description		<input type="text" value="Failed to conduct effective manual or automatic inventory control procedures for the UST system."/>			
Base Penalty				<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="50%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				
Adjustment				<input type="text" value="\$5,000"/>	
				<input type="text" value="\$5,000"/>	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="54"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
single event	<input type="text"/>				
				Violation Base Penalty	<input type="text" value="\$5,000"/>
<input type="text" value="One quarterly event is recommended based on documentation of the violation during the April 25, 2008 investigation to the June 18, 2008 screening date."/>					
Good Faith Efforts to Comply		0.0% Reduction		\$0	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary		<input type="text"/>	<input type="text"/>		
Ordinary		<input type="text"/>	<input type="text"/>		
N/A		<input checked="" type="checkbox"/>	<i>(mark with x)</i>		
Notes		<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal				<input type="text" value="\$5,000"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$20"/>		Violation Final Penalty Total <input type="text" value="\$5,100"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$5,100"/>	

Economic Benefit Worksheet

Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3

Case ID No. 36083

Reg. Ent. Reference No. RN101663771

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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				0.00	\$0	n/a	\$0
Record Keeping System	\$500	25-Apr-2008	18-Feb-2009	0.82	\$20	n/a	\$20
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				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

Approx. Cost of Compliance

\$500

TOTAL

\$20

Screening Date 18-Jun-2008	Docket No. 2008-1005-PST-E	PCW	
Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36083	<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN101663771			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Wallace Myers			
Violation Number 3			
Rule Cite(s)	30 Tex. Admin. Code § 334.50(d)(1)(B)(ii), (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)		
Violation Description	Failed to provide release detection by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the the amount still remaining in the tank each operating day.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	x	<input type="text"/>
		Percent	50%
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Minor	
		<input type="text"/>	<input type="text"/>
		Percent	0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.		
		Adjustment	\$5,000
			\$5,000
Violation Events			
Number of Violation Events		1	54
		Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	x	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
		Violation Base Penalty	\$5,000
One quarterly event is recommended based on documentation of the violation during the April 25, 2008 investigation to the June 18, 2008 screening date.			
Good Faith Efforts to Comply			
		0.0% Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
		Violation Subtotal	\$5,000
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$67	Violation Final Penalty Total	\$5,100
		This violation Final Assessed Penalty (adjusted for limits)	\$5,100

Economic Benefit Worksheet

Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3

Case ID No. 36083

Reg. Ent. Reference No. RN101663771

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	25-Apr-2008	18-Mar-2009	0.90	\$67	n/a	\$67

Notes for DELAYED costs
 Estimated cost to provide a method of release detection for the UST system including volume measurement and reconciliation of inventory control records. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				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

Approx. Cost of Compliance **TOTAL**
\$67

Screening Date 18-Jun-2008	Docket No. 2008-1005-PST-E	PCW	
Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36083	<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN101663771			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Wallace Myers			
Violation Number <input type="text" value="4"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(C)"/>		
Violation Description	<input type="text" value="Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST at the facility according to the UST registration and self-certification form."/>		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
>> Programmatic Matrix			
Falsification			
Major			Moderate
Minor			
<input type="text"/>			<input checked="" type="text" value="x"/>
			Percent <input type="text" value="25%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>		
Adjustment		<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>	
Violation Events			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="3"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="text" value="x"/>	
<input type="text" value="One single event is recommended based on documentation of the violation during the April 25, 2008 investigation."/>			
Good Faith Efforts to Comply		0.0% Reduction	<input type="text" value="\$0"/>
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="text" value="x"/>	<i>(mark with x)</i>	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
Violation Subtotal		<input type="text" value="\$2,500"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$2,550"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$2,550"/>	

Economic Benefit Worksheet

Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3

Case ID No. 36083

Reg. Ent. Reference No. RN101663771

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

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				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	25-Apr-2008	28-Apr-2008	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to label the tank fill ports. The date required is the date of investigation and the final date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				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

Approx. Cost of Compliance

\$100

TOTAL

\$0

Screening Date 18-Jun-2008		Docket No. 2008-1005-PST-E		PCW	
Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36083		<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN101663771					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Wallace Myers					
Violation Number		<input type="text" value="5"/>			
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code § 115.224(1) and Tex. Health & Safety Code § 382.085(b)"/>			
Violation Description		<input type="text" value="Failed to conduct inspections for liquid leaks, visible vapors, or significant odors resulting from gasoline transfer. Specifically, the Stage I vapor recovery valve on the diesel tank was broken."/>			
Base Penalty				<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	Percent <input type="text" value="25%"/>	
>> Programmatic Matrix					
Falsification		Major	Moderate	Minor	
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	
Matrix Notes		<input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>			
Adjustment				<input type="text" value="\$7,500"/>	
				<input type="text" value="\$2,500"/>	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="54"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
				Violation Base Penalty	<input type="text" value="\$2,500"/>
<input type="text" value="One quarterly event is recommended based on documentation of the violation during the April 25, 2008 investigation to the June 18, 2008 screening date."/>					
Good Faith Efforts to Comply		0.0% Reduction		<input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input checked="" type="checkbox"/>	<i>(mark with x)</i>			
Notes		<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal				<input type="text" value="\$2,500"/>	
Economic Benefit (EB) for this violation					
Estimated EB Amount		<input type="text" value="\$4"/>	Statutory Limit Test		
			Violation Final Penalty Total	<input type="text" value="\$2,550"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$2,550"/>	

Economic Benefit Worksheet

Respondent Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3

Case ID No. 36083

Reg. Ent. Reference No. RN101663771

Media Petroleum Storage Tank

Violation No. 5

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				0.00	\$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				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	25-Apr-2008	18-Mar-2009	0.90	\$4	n/a	\$4

Notes for DELAYED costs
 Estimated cost to conduct inspections of the Stage II system and repair or replace the valve on the diesel tank. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				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

Approx. Cost of Compliance **TOTAL**

\$100		TOTAL	\$4
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Compliance History

Customer/Respondent/Owner-Operator:	CN603095423 Swati Holding, Company	Classification: AVERAGE	Rating: 1.60
Regulated Entity:	RN101663771 GATOR STOP 3	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	20758
Location:	16075 IH 35 S, ROSS, TX, 76684	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	April 09, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 19, 2003 to June 19, 2008		

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

Name: Wallace Myers Phone: 512-239-6580

Site Compliance History Components

- | | |
|--|-------------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>SWATI Holding, Company</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Petro Plus, Inc.</u> |
| 5. When did the change(s) in ownership occur? | <u>5/5/2008</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. (CEEDS Inv. Track. No.)

1	01/20/2005	(347511)
2	08/19/2005	(401911)
3	06/02/2008	(654941)
 - E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)

Date:	10/25/2004	(338371)
Self Report?	NO	
Citation:	30 TAC Chapter 111, SubChapter B 111.201	
Description:	Failure to prevent outdoor burning of unauthorized materials.	
Classification:	Moderate	
 - 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

CH-1

Compliance History

Customer/Respondent/Owner-Operator:	CN603115205 Reddy-Gator, Inc.	Classification: AVERAGE	Rating: 0.60
Regulated Entity:	RN101663771 GATOR STOP 3	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	20758
Location:	16075 IH 35 S, ROSS, TX, 76684	Rating Date: September 01 07 Repeat Violator: N	
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	June 27, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 19, 2003 to June 19, 2008		

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

Name: Wallace Myers Phone: 512-239-6580

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Swati Holding, Company
4. If Yes, who was/were the prior owner(s)? Petro Plus, Inc.
5. When did the change(s) in ownership occur? 5/5/2008

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	01/20/2005	(347511)
2	08/19/2005	(401911)
3	06/02/2008	(654941)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	10/25/2004	(338371)
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 111, SubChapter B 111.201	
Description:	Failure to prevent outdoor burning of unauthorized materials.	
 - 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

CH-2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	
ENFORCEMENT ACTION	§	BEFORE THE
CONCERNING	§	
REDDY-GATOR, INC. AND SWATI	§	TEXAS COMMISSION ON
HOLDING, COMPANY DBA GATOR	§	
STOP 3;	§	ENVIRONMENTAL QUALITY
RN101663771	§	

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2008-1005-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, 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 respondents, Reddy-Gator, Inc. (“Reddy-Gator”) and Swati Holding, Company (“Swati Holding”) (collectively the “Respondents”) dba Gator Stop 3, to shutdown or remove from service the Underground Storage Tanks (“USTs”) at the Gator Stop 3 station, located at 16074 Interstate Highway 35 South, Ross, McLennan County, Texas.

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

FINDINGS OF FACT

1. Swati Holding owns and Reddy-Gator operates a convenience store with retail sales of gasoline located at 16074 Interstate Highway 35 South, Ross, McLennan County, Texas (the “Station”). According to public information reports filed with the Texas Secretary of State, Swati Holding and Reddy-Gator share a common single principal and registered agent, identified as Shujat Ali Swati, and accept service at the same address in Port Arthur, Texas.

2. The two 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 April 25, 2008, an investigator from the TCEQ Waco Regional Office documented that Respondents:
 - a. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel;
 - b. Failed to conduct effective manual or automatic inventory control procedures for the UST system;
 - c. Failed to provide release detection by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day;
 - d. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST at the station according to the UST registration and self-certification form; and
 - e. Failed to conduct inspections for liquid leaks, visible vapors, or significant odors resulting from gasoline transfer. Specifically, the Stage I vapor recovery valve on the diesel tank was broken.
4. By letter dated June 2, 2008, the TCEQ Waco Regional Office provided Respondents 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. Respondents received notice of the violations on or about June 7, 2008.

6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3" (the "EDPRP") in the TCEQ Chief Clerk's office on November 21, 2008.
7. By letter dated November 21, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green cards," each Respondent received notice of the EDPRP on November 28, 2008, as evidenced by the signatures on the cards.
8. More than twenty days have elapsed since Respondents received notice of the EDPRP, provided by the Executive Director. Respondents failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. By letter dated January 21, 2009, TCEQ provided Respondents with Notice of TCEQ's intent to order the USTs at the Station shut down and removed from service if Respondents failed to correct the release detection violation within thirty days after Respondents' receipt of the notice. According to the return receipt "green card," Respondents received the Notice on January 23, 2009.
10. As of the date of entry of this Order, Respondents have not corrected the violations noted during the April 25, 2008, investigation.
11. The USTs at the Station do not have release detection as required by 30 TEX. ADMIN. CODE § 334.50 and TEX. WATER CODE § 26.3475(c)(1) 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, Respondents' 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., Respondents violated 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel.

3. As evidenced by Finding of Fact Number 3.b., Respondents violated 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST system.
4. As evidenced by Finding of Fact Number 3.c., Respondents violated 30 TEX. ADMIN. CODE §§ 334.50(d)(1)(B)(ii), (d)(1)(B)(iii)(I), and TEX. WATER CODE § 26.3475(c)(1) by failing to provide release detection by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.
5. As evidenced by Finding of Fact Number 3.d., Respondents violated 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST at the station according to the UST registration and self-certification form.
6. As evidenced by Finding of Fact Number 3.e., Respondents violated 30 TEX. ADMIN. CODE § 115.224(1) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to conduct inspections for liquid leaks, visible vapors, or significant odors resulting from gasoline transfer.
7. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served each Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 8, each Respondent 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 Respondents and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of the Texas Water Code and the Texas Health & 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.

10. An administrative penalty in the amount of seventeen thousand eight hundred fifty dollars (\$17,850.00) is justified by the facts recited in this Order and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. As evidenced by Finding of Fact Nos. 3, 7, 9, and 10, Respondents failed to correct documented violations of Commission requirements within thirty days after receiving notice of the violations and notice of the Executive Director's intent to shut down the Station.
12. 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 thirty 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 overflow protection for tanks, corrosion protection for tanks and piping, and/or acceptable financial assurance.
13. 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.
14. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Respondents' UST delivery certificate if the Commission finds that good cause exists.
15. Good cause for revocation of Respondents' UST delivery certificate exists as justified by Findings of Fact Nos. 3 through 10 and Conclusions of Law Nos. 2 through 8 and 11.
16. As evidenced by Finding of Fact Number 11, 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, Respondents 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. Respondents' UST delivery certificate is revoked immediately upon the effective date of this Order. Respondents may submit an application for a new delivery certificate only after Respondents comply with the requirements set forth in Ordering Provision Nos. 3, 4, 6, and 8.a. through 8.d.
3. Within ten days after the effective date of this Order, Respondents shall send their 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 fifteen days after the effective date of this Order, Respondents 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. Respondents 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

Frank Burlison, Waste Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

5. If Respondents elect to permanently remove from service any USTs at the Station, Respondents shall immediately and permanently remove the UST system in accordance with 30 TEX. ADMIN. CODE § 334.55. If Respondents permanently remove any portion of the UST system from service, Respondents shall, within fifteen days after the effective date of this order, submit to the Commission a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55. Respondents 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. Respondents are assessed an administrative penalty in the amount of seventeen thousand eight hundred fifty dollars (\$17,850.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' 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 thirty days after the effective date of this Order and shall be sent with the notation "Re: Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3; Docket No. 2008-1005-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. Respondents' 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 Respondents demonstrate to the satisfaction of the Executive Director that the violations noted in Finding of Fact Nos. 3.a through 3.e and Conclusion of Law Nos. 2 through 6 as listed herein have been corrected.

8. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondents shall:
 - a. Install and implement a release detection method for all USTs at the Station;
 - b. Begin recording volume measurements and reconciliation of inventory control records in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - c. Begin conducting proper inventory control procedures for all USTs in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - d. Repair or replace the Stage I vapor recovery valve on the diesel tank in accordance with 30 TEX. ADMIN. CODE § 115.224; and
 - e. Obtain a new delivery certificate from the TCEQ.

9. Within ten days of resuming retail sales of gasoline, Respondents shall 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. 8. The written 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

and

Frank Burleson, Waste Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

10. Upon obtaining a new delivery certificate, Respondents 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).
11. All relief not expressly granted in this Order is denied.
12. The provisions of this Order shall apply to and be binding upon Respondents, and Respondents are ordered to give notice of this Order to personnel who maintain day to day control of the USTs at the Station.
13. 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 Respondents if the Executive Director determines that Respondents are noncompliant with or in violation of any of the terms and conditions set forth in this Order.
14. This Order shall terminate five years from its effective date or when Respondents demonstrate to the satisfaction of the Executive Director that all of the violations noted herein have been corrected, whichever is later.
15. 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).

Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3
TCEQ Docket No. 2008-1005-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEPHANIE J. FRAZEE

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Stephanie J. Frazee. 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.

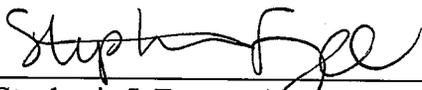
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Reddy-Gator, Inc. and Swati Holding, Company dba Gator Stop 3” (the “EDPRP”) was filed with the Office of the Chief Clerk on November 21, 2008.

The EDPRP was mailed to each Respondent at its last known address on November 21, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green cards,” each Respondent received notice of the EDPRP on November 28, 2008, as evidenced by the signature on the card.

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

By letter dated January 21, 2009, sent via first class mail and certified mail, return receipt requested article no. 9171082133393520538843, I provided Respondents 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 were not corrected within thirty days of Respondents’ receipt of the letter. According to the return receipt “green card,” Respondents received the notice on January 23, 2009.

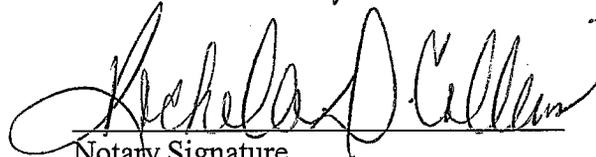
As of the date of this affidavit, I am not aware of any evidence that indicates that the violations noted during the April 25, 2008, investigation have been corrected.”



Stephanie J. Frazee, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, 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 3rd day of March A.D., 2009.



Notary Signature

