

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0326-PST-E TCEQ ID: RN101729127 CASE NO.: 35437

RESPONDENT NAME: GATOR STOP, INC. DBA GATOR STOP RAYWOOD

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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: 13652 Highway 90 East, Raywood, Liberty 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.

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 June 29, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Gulab Singh, President and Director, Gator Stop, Inc. dba Gator Stop Raywood, 7918 Brook Trail Cir., Houston, Texas 77040

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 type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 5, 2008</p> <p>Date of NOE Relating to this Case: March 12, 2008</p> <p>Background Facts: The EDRP was filed on September 16, 2008. The EDRP was re-filed on October 13, 2008 to obtain service on the Respondent. The Respondent filed an answer on October 2, 2008. The case was referred to SOAH on December 10, 2008. A settlement agreement was reached with the Respondent on March 15, 2009 and a signed Agreed Order was received on March 24, 2009.</p> <p>Current Compliance Status: The Respondent is no longer the operator of the Facility.</p> <p>PST:</p> <p>1. Failed to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2. Failed to conduct proper inventory control procedures for all USTs at the Facility [30 TEX. ADMIN. CODE § 334.50(d)(1)(B) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on July 31, 2006 [30 TEX. ADMIN. CODE §§ 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii)].</p> <p>4. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p>	<p>Total Assessed: \$5,160</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: \$260/\$4,900</p> <p>This is an Agreed Order. The Respondent has paid \$260 of the administrative penalty. The remaining amount of \$4,900 of the administrative penalty shall be payable in 35 monthly payments of \$140 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The ED recognizes that as of March 31, 2008, the Respondent is no longer the operator of the Facility.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

ICEQ

DATES	Assigned	19-Feb-2008		
	PCW	2-Jun-2008	Screening	22-Feb-2008
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Gator Stop, Inc. dba Gator Stop Raywood
Reg. Ent. Ref. No.	RN101729127
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	35437	No. of Violations	3	
Docket No.	2008-0326-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya	
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	\$4,000
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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	29% Enhancement	Subtotals 2, 3, & 7	\$1,160
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Notes: Enhancement for two NOVs without same or similar violations and one prior enforcement order without a denial of liability.

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

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts	\$55	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$1,600	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,160
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$5,160
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,160
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DEFERRAL	0% Reduction	Adjustment	\$0
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Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$5,160
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Screening Date 22-Feb-2008

Docket No. 2008-0326-PST-E

PCW

Respondent Gator Stop, Inc. dba Gator Stop Raywood

Policy Revision 2 (September 2002)

Case ID No. 35437

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101729127

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

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)	0	0%
	Other written NOVs	2	4%
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	1	25%
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%

Please Enter Yes or No

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) 29%

>> 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 two NOVs without same or similar violations and one prior enforcement order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 29%

Screening Date 22-Feb-2008 **Docket No.** 2008-0326-PST-E **PCW**
Respondent Gator Stop, Inc. dba Gator Stop Raywood *Policy Revision 2 (September 2002)*
Case ID No. 35437 *PCW Revision January 29, 2008*
Reg. Ent. Reference No. RN101729127
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya
Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), 334.50(d)(1)(B) and Tex. Water Code § 26.3475(c)(1)
Violation Description Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to conduct proper inventory control procedures for all USTs at the Facility.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix:

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 17

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the February 5, 2008 investigation to February 22, 2008 screening date.

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

Estimated EB Amount \$44 **Violation Final Penalty Total** \$3,225

This violation Final Assessed Penalty (adjusted for limits) \$3,225

Economic Benefit Worksheet

Respondent Gator Stop, Inc. dba Gator Stop Raywood

Case ID No. 35437

Reg. Ent. Reference No. RN101729127

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	5-Feb-2008	5-Sep-2008	0.6	\$44	n/a	\$44

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs and to conduct proper inventory control procedures. Date Required is the date of the investigation. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$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

\$44

Screening Date 22-Feb-2008	Docket No. 2008-0326-PST-E	PCW		
Respondent Gator Stop, Inc. dba Gator Stop Raywood	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 35437	<i>PCW Revision January 29, 2008</i>			
Reg. Ent. Reference No. RN101729127				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Rajesh Acharya				
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)			
Violation Description	Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on July 31, 2006.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	0%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	10%	
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment	\$9,000	
		\$1,000		
Violation Events				
Number of Violation Events		1	Number of violation days	
		572		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty \$1,000	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text"/>		
One single event is recommended.				
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		\$11	Violation Final Penalty Total \$1,290	
This violation Final Assessed Penalty (adjusted for limits)			\$1,290	

Economic Benefit Worksheet

Respondent: Gator Stop, Inc. dba Gator Stop Raywood

Case ID No.: 35437

Reg. Ent. Reference No.: RN101729127

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
No commas or \$							

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)	\$100	1-Jul-2006	30-Sep-2008	2.3	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to renew a delivery certificate by submitting an updated registration. Date Required is 30 days prior to the expiration date of the delivery certificate. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$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

\$11

Screening Date 22-Feb-2008

Docket No. 2008-0326-PST-E

PCW

Respondent Gator Stop, Inc. dba Gator Stop Raywood

Policy Revision 2 (September 2002)

Case ID No. 35437

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN101729127

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<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: Gator Stop, Inc. dba Gator Stop Raywood

Case ID No.: 35437

Reg. Ent. Reference No.: RN101729127

Media: Petroleum Storage Tank

Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

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

Economic benefit included in Violation No. 2.

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 \$0

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN603166737 Gator Stop, Inc.	Classification: AVERAGE	Rating: 26.25
Regulated Entity:	RN101729127 GATOR STOP RAYWOOD	Classification: AVERAGE	Site Rating: 26.25
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	54324
Location:	13652 HWY 90 E, RAYWOOD, TX, 77582	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
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: Rajesh Acharya Phone: (512) 239-0577

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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? Gator Stop, Inc.
4. If Yes, who was/were the prior owner(s)? Hussain Liaqat
5. When did the change(s) in ownership occur? 04/06/2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
 - Effective Date: 02/05/2006 ADMINORDER 2004-1085-PST-E
 - Classification: Moderate
 - Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)
 - Description: Failure to demonstrate financial assurance for USTs systems.
- 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.)
 - N/A
 - 1 07/09/2004 (279981)
 - 2 02/15/2007 (534543)
 - 3 04/27/2007 (541250)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 01/12/2007 (534432)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)
 - Description: Failure to develop and maintain all UST records required by the provisions of Title 30 TAC §334.51(c)(1) pertaining to spill and overfill control records.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
 - Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)
 - Description: Failure of the owner or operator of the USTs regulated under this section for ensuring that the USTs are labeled with an identification number.
 - Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.875(a)
 30 TAC Chapter 37, SubChapter I 37.875(b)(1)

Description: Failure to maintain evidence of all financial mechanisms used to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily harm and property damage caused by accidental releases arising from the operation of petroleum USTs.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the TCEQ, EPA, or any local air pollution control program with jurisdiction.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)

Description: Failure to maintain a daily inspection log according to 115.244 (Inspection Requirements).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: Failure to maintain a maintenance log for all repair/replacements conducted at the facility.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II Vapor Recovery system and any related components installed at the facility.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(B)

Description: Failure to maintain hose in a manner that the hose is not crimped, kinked, or flattened such that the vapor passage is blocked, or the back-pressure through the vapor system exceeds the value as certified in the approved system's CARB Executive Order(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

Description: Failure to maintain all components of the Stage II Vapor Recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.

Date: 04/27/2007 (541250)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to provide records.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to complete compliance tests as required.

- 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
AGAINST GATOR STOP, INC. DBA
GATOR STOP RAYWOOD;
RN101729127**

§
§
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§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-0326-PST-E**

I. JURISDICTION AND STIPULATIONS

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

1. Gator Stop operated a convenience store with retail sales of gasoline at 13652 Highway 90 East, Raywood, Liberty County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Gator Stop agree that the Commission has jurisdiction to enter this Agreed Order, and that Gator Stop is subject to the Commission's jurisdiction.
4. Gator Stop received notice of the violations alleged in Section II ("Allegations") on or about March 17, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Gator Stop of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of five thousand one hundred sixty dollars (\$5,160.00) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). Gator Stop paid two hundred sixty dollars (\$260.00) of the administrative penalty. The remaining amount of four thousand nine hundred dollars (\$4,900.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred forty dollars (\$140.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Gator Stop fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Gator Stop's failure to meet the payment schedule of this Agreed Order constitutes the failure by Gator Stop to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Gator Stop have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that as of March 31, 2008, Gator Stop is no longer the operator of the Facility and has no day-to-day control over the Facility's operations.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Gator Stop has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During a record review conducted on February 5, 2008, a TCEQ Central Office investigator documented that Gator Stop violated:

- a. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) by failing to monitor underground storage tanks (“USTs”) for release at a frequency of at least once every month (not to exceed 35 days between each monitoring).
- b. 30 TEX. ADMIN. CODE § 334.50(d)(1)(B) and TEX. WATER CODE § 26.3475(c)(1) by failing to conduct proper inventory control procedures for all USTs at the Facility.
- c. 30 TEX. ADMIN. CODE §§ 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii) by failing to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on July 31, 2006.
- d. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a delivery certificate.

III. DENIALS

Gator Stop generally denies each allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Gator Stop pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Gator Stop’s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Gator Stop, Inc. dba Gator Stop Raywood, Docket No. 2008-0326-PST-E” to:

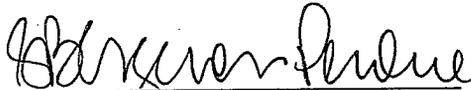
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Gator Stop.
3. This Agreed Order, issued by the Commission, shall not be admissible against Gator Stop in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Gator Stop, or three days after the date on which the Commission mails notice of the Order to Gator Stop, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/28/2009

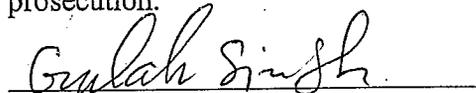
Date

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

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

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

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

03-24-09

Date

GULAB SINGH

Name (Printed or typed)

Owner

Title

Authorized representative of
Gator Stop, Inc. dba Gator Stop Raywood