

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0398-PST-E TCEQ ID: RN101863165 CASE NO.: 35514
RESPONDENT NAME: JOE BEN WOLF

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

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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: Highway 149, Longview, Gregg County

TYPE OF OPERATION: Property with two underground storage tanks

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 on May 31, 2009. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205
 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: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176
Respondent: Mr. Joe Ben Wolf, P.O. Box 1379, Kilgore, Texas 75663
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 Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 15, 2008</p> <p>Date of NOE Relating to this Case: March 20, 2008</p> <p>Background Facts: The EDPRP was filed on September 5, 2008 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on September 15, 2008, as evidenced by the signature on the card. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent is not yet in compliance.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation, to date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)]. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change, [30 TEX. ADMIN. CODE § 334.7(d)(3)]. 	<p>Initial Calculated Penalty: \$ 11,550</p> <p>Total Assessed: \$11,550</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: \$11,550</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, permanently remove the UST system from service. Within 45 days, submit an amended registration to reflect the current operational status of the UST system and the current Station ownership and contact information Within 60 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

TCEQ

DATES

Assigned PCW	3-Mar-2008	Screening	7-Mar-2008	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Joe Ben Wolf		
Reg. Ent. Ref. No.	RN101863165		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35514	No. of Violations	2
Docket No.	2008-0398-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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

Total EB Amounts Subtotal 6
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 7-Mar-2008

Docket No. 2008-0398-PST-E

PCW

Respondent Joe Ben Wolf

Policy Revision 2 (September 2002)

Case ID No. 35514

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101863165

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)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one Notice of Violation with same or similar violations.

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

Screening Date 7-Mar-2008 **Docket No.** 2008-0398-PST-E **PCW**
Respondent Joe Ben Wolf *Policy Revision 2 (September 2002)*
Case ID No. 35514 *PCW Revision February 29, 2008*
Reg. Ent. Reference No. RN101863165
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix
OR

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

>> 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**

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

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: Joe Ben Wolf

Case ID/No.: 35514

Reg. Ent. Reference No.: RN101863165

Media: Petroleum Storage Tank

Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	22-Dec-1998	22-Oct-2008	9.8	\$4,921	\$0	\$4,921

Notes for DELAYED costs

Estimated cost to permanently remove the UST system from service. The Date Required is the date when the Respondent was required to upgrade the UST system and the Final Date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$4,921

Screening Date 7-Mar-2008

Docket No. 2008-0398-PST-E

PCW

Respondent Joe Ben Wolf

Policy Revision 2 (September 2002)

Case ID No. 35514

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101863165

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the correct contact information and the current operational status of the UST system.

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="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

100% of the rule requirement was not met.

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

One single event is recommended based on documentation of the violation during the January 15, 2008 record review.

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: Joe Ben Wolf
Case ID No: 35514
Reg. Ent. Reference No: RN101863165
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	15-Jan-2008	6-Nov-2008	0.8	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the date of the record review and the Final Date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$4

Compliance History

Customer/Respondent/Owner-Operator:	CN601014970 Joe Ben Wolf	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN101863165 CHEROKEE VILLAGE GROCERY	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	25802
Location:	HWY 149, LONGVIEW, TX, 75601	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	March 12, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 12, 2003 to March 12, 2008		

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

Name: Shontay Wilcher Phone: (512) 239-2136

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 02/16/2007 (537650)
 - 2 02/01/2008 (613915)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 02/16/2007 (537650)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
 - Description: Failure to perform the permanent removal of two USTs at Cherokee Village Grocery located at Hwy. 149, Longview, Texas in accordance with 334.55 or provide documentation for the technical upgrade requirements in accordance with 334.47.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
 - Description: Failure to amend the Cherokee Village Grocery facility PST Registration Information to reflect the current property owner's contract information, effective date of ownership, and status of the UST system.
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JOE BEN WOLF;
RN101863165**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2008-0398-PST-E

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

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

FINDINGS OF FACT

1. Mr. Wolf owns property located on Highway 149, Longview, Gregg County, Texas (the "Property").
2. Mr. Wolf's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Wolf's USTs contain a regulated substance as defined in the rules of the Commission.
3. During a record review conducted on January 15, 2008, a TCEQ Tyler Regional Office investigator documented that Mr. Wolf:
 - a. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and
 - b. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change.
4. Mr. Wolf received notice of the violations on or about March 25, 2008.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Joe Ben Wolf" (the "EDPRP") in the TCEQ Chief Clerk's office on September 5, 2008.
6. By letter dated September 5, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Wolf with notice of the EDPRP. According to the return receipt "green card," Mr. Wolf received notice of the EDPRP on September 15, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Wolf received notice of the EDPRP, provided by the Executive Director. Mr. Wolf failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Wolf is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Wolf failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
3. As evidenced by Finding of Fact No. 3.b., Mr. Wolf failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Wolf with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a)(2).
5. As evidenced by Finding of Fact No. 7, Mr. Wolf 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 Mr. Wolf and assess the penalty recommended by the Executive Director.

6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Wolf for violations of the Texas Water 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.
7. An administrative penalty in the amount of eleven thousand five hundred fifty dollars (\$11,550.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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.

ORDERING PROVISIONS

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

1. Mr. Wolf is assessed an administrative penalty in the amount of eleven thousand five hundred fifty dollars (\$11,550.00) for violations of TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ. The payment of this administrative penalty and Mr. Wolf's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Joe Ben Wolf; Docket No. 2008-0398-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. Mr. Wolf shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Wolf shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.

- b. Within 45 days after the effective date of the Commission Order, Mr. Wolf shall submit an amended registration to reflect the current operational status of the UST system and the current Station ownership and contact information, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting and Remediation Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-30870

- c. Within 60 days after the effective date of this Order, Mr. Wolf shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Wolf shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. to:

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

with a copy to:

Michael Brashear, Waste Section Manager
Texas Commission on Environmental Quality
Tyler Regional Office
2916 Teague Dr.

Tyler, Texas 78701-3734

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Wolf. Mr. Wolf is ordered to give notice of this Order to personnel who maintain day-to-day control over the Property referenced in this Order.
5. If Mr. Wolf fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Wolf's failure to comply is not a violation of this Order. Mr. Wolf shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Wolf shall notify the Executive Director within seven days after Mr. Wolf becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Wolf shall be made in writing to the Executive Director. Extensions are not effective until Mr. Wolf receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Wolf if the Executive Director determines that Mr. Wolf has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF RUDY CALDERON

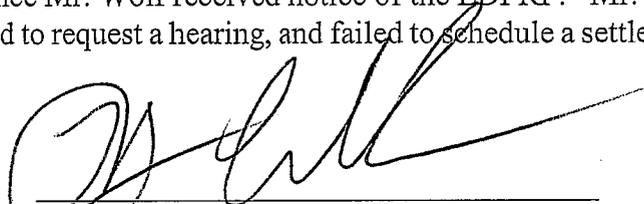
STATE OF TEXAS §
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COUNTY OF TRAVIS §

“My name is Rudy Calderon. 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 Joe Ben Wolf” (the “EDPRP”) was filed with the Office of the Chief Clerk on September 5, 2008.

The EDPRP was mailed to Mr. Wolf at his last known address on September 5, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Wolf received notice of the EDPRP on September 15, 2008, as evidenced by the signature on the card.

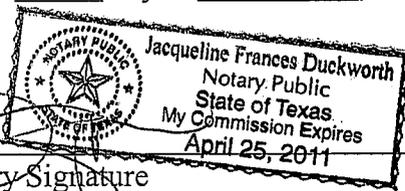
More than 20 days have elapsed since Mr. Wolf received notice of the EDPRP. Mr. Wolf failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Rudy Calderon, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 27th day of Nov, A.D., 2009.



Notary Signature