

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-0879-PST-E TCEQ ID: RN101803757 CASE NO.: 35956**

**RESPONDENT NAME: NEW STAR HOLDINGS, L.L.C. DBA FRIENDSWOOD TEXACO 106 AKA FRIENDSWOOD SHELL AND NORTHSTAR EQUITIES, INC. DBA FRIENDSWOOD TEXACO 106 AKA FRIENDSWOOD SHELL**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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:** 4550 Farm-to-Market Road 2351, Friendswood, Harris County

**TYPE OF OPERATION:** Convenience station 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 1, 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:** Aslam Kapadia, President, New Star Holdings, L.L.C. and Northstar Equities, Inc., 10101 Southwest Fwy, Suite 101, Houston, Texas 77074

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

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 29, 2008</p> <p><b>Date of NOE Relating to this Case:</b> May 16, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed on October 22, 2008, and mailed to the Respondents via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondents received notice of the EDPRP on October 27, 2008, 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><b>Current Compliance Status:</b> The Respondents submitted a UST Registration and Self-Certification form in August 2008 and received a valid current delivery certificate with an expiration date of July 2009. The Respondents are not yet in compliance for the other alleged violations.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>1. Failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>2. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems [30 TEX. ADMIN. CODE § 115.242(1)(C), (3)(L) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>3. Failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(1)(C), (3)(L) and TEX. HEALTH &amp;</li> </ol>	<p><b>Total Assessed:</b> \$4,725</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$4,725</p> <p>This is a Default Order. The Respondents have not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions:</b></p> <p>The Executive Director recognizes that the Respondents submitted a UST registration and self-certification form in August 2008 and received a valid current delivery certificate with an expiration date of July 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Respondents shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, begin maintaining all Stage II records at the Station.</li> <li>2. Within 30 days:                     <ol style="list-style-type: none"> <li>a. Ensure that at least one Station representative successfully completes the required Stage II training in the operation and maintenance of the Stage II vapor recovery system; and</li> <li>b. Begin maintaining the Stage II vapor recovery system in proper operating condition including but not limited to upgrading the Stage II equipment to ORVR compatible systems, installing an approved nozzle on the supreme grade no. 8 dispenser, and conducting successful Stage II vapor recovery tests after completing the ORVR upgrade.</li> </ol> </li> <li>3. Within 45 days, submit written certification and include supporting documentation to demonstrate compliance with Ordering Provision Nos. 1 and 2.</li> </ol>

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p>SAFETY CODE § 382.085(b)].</p> <p>4. Failed to ensure that at least one Station representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system within three months of departure of the previously trained employee [30 TEX. ADMIN. CODE § 115.248(2) and TEX. HEALTH &amp; SAFETY CODE 382.085(b)].</p> <p>5. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification for at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>6. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p>		

# Penalty Calculation Worksheet (PCW)

 Policy Revision 2 (September 2002)
PCW Revision June 12, 2008

<b>DATES</b>	Assigned	23-May-2008	Screening	27-May-2008	EPA Due	
	PCW	27-May-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba Friendswood Texaco 106 aka Friendswood Shell
Reg. Ent. Ref. No.	RN101803757
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35956	No. of Violations	5
Docket No.	2008-0879-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rajesh Acharya
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 6
Maximum	\$10,000		

Penalty Calculation Section	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> <span style="float: right;">\$4,500</span>
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	5.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> <span style="float: right;">\$225</span>
Notes	Enhancement for one NOV with same or similar violations.
Culpability	No 0.0% Enhancement <b>Subtotal 4</b> <span style="float: right;">\$0</span>
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	<b>Subtotal 5</b> <span style="float: right;">\$0</span>
Economic Benefit	0.0% Enhancement* <b>Subtotal 6</b> <span style="float: right;">\$0</span>
Total EB Amounts	\$205
Approx. Cost of Compliance	\$4,600
*Capped at the Total EB \$ Amount	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> <span style="float: right;">\$4,725</span>
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0% <b>Adjustment</b> <span style="float: right;">\$0</span>
Reduces or enhances the Final Subtotal by the indicated percentage.	
Notes	
	<b>Final Penalty Amount</b> <span style="float: right;">\$4,725</span>
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> <span style="float: right;">\$4,725</span>
<b>DEFERRAL</b>	20.0% Reduction <b>Adjustment</b> <span style="float: right;">-\$945</span>
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)	
Notes	Deferral offered for expedited settlement.
<b>PAYABLE PENALTY</b>	<b>\$3,780</b>

**Screening Date** 27-May-2008

**Docket No.** 2008-0879-PST-E

**PCW**

**Respondent** New Star Holdings, L.L.C. dba Friendswood Texaco 106

Policy Revision 2 (September 2002)

**Case ID No.** 35956

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN101803757

**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 ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
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%

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)** 5%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one NOV with same or similar violations.

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

<b>Screening Date:</b> 27-May-2008	<b>Docket No.</b> 2008-0879-PST-E	<b>PCW</b>
<b>Respondent:</b> New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friend	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 35956	<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101803757		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Rajesh Acharya		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.246(5) and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel. Specifically, Stage II test results were not available for review.	
<b>Base Penalty</b>		\$10,000

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
				<b>Adjustment</b> <input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>

<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>		<b>Number of violation days</b>
		<input type="text" value="28"/>		
<small>mark only one with an x</small>	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="text" value="x"/>		
		<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>		
One single event is recommended based on documentation of the violation during the April 29, 2008 investigation date.				

<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/>	<b>Reduction</b>	<input type="text" value="\$0"/>
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="text" value="x"/>	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
				<b>Violation Subtotal</b> <input type="text" value="\$1,000"/>

<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$17"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,050"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$1,050"/>

### Economic Benefit Worksheet

**Respondent** New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba Fi

**Case ID No.** 35956

**Reg. Ent. Reference No.** RN101803757

**Media** Petroleum Storage Tank

**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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	29-Apr-2008	29-Dec-2008	0.67	\$17	n/a	\$17
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 of maintaining Stage II records. Date Required is the investigation date. 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:**

\$17

<b>Screening Date</b> 27-May-2008	<b>Docket No.</b> 2008-0879-PST-E	<b>PCW</b>					
<b>Respondent</b> New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friends	<i>Policy Revision 2 (September 2002)</i>						
<b>Case ID No.</b> 35956	<i>PCW Revision June 12, 2008</i>						
<b>Reg. Ent. Reference No.</b> RN101803757							
<b>Media [Statute]</b> Petroleum Storage Tank							
<b>Enf. Coordinator</b> Rajesh Acharya							
<b>Violation Number</b>	2						
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(1)(C), (3)(L) and Tex. Health & Safety Code § 382.085(b)						
<b>Violation Description</b>	Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the nozzle for supreme grade No. 8 was an incorrect nozzle type and not approved for use with the Stage II system at the Station.						
<b>Base Penalty</b>		\$10,000					
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>							
<b>OR</b>	<b>Harm</b>			<b>Percent</b>			
	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>				
<b>Actual</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10%			
<b>Potential</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>				
<b>&gt;&gt; Programmatic Matrix</b>							
<b>Falsification</b>			<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	<b>Percent</b>	
<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		0%
<b>Matrix Notes</b>	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.						
<b>Adjustment</b>						\$9,000	
<b>Violation Events</b>						\$1,000	
<b>Number of Violation Events</b>		1	<b>Number of violation days</b>		28		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>				<b>Violation Base Penalty</b>	
	monthly	<input type="checkbox"/>					\$1,000
	quarterly	<input checked="" type="checkbox"/>					
	semiannual	<input type="checkbox"/>					
	annual	<input type="checkbox"/>					
single event	<input type="checkbox"/>						
One quarterly event is recommended based on documentation of the violation during the April 29, 2008 investigation to the May 27, 2008 screening date.							
<b>Good Faith Efforts to Comply</b>		0.0% Reduction		\$0			
		Before NOV    NOV to EDPRP/Settlement Offer					
Extraordinary	<input type="checkbox"/>						
Ordinary	<input type="checkbox"/>						
N/A	<input checked="" type="checkbox"/>	(mark with x)					
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.						
<b>Violation Subtotal</b>						\$1,000	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>				
<b>Estimated EB Amount</b>		\$164		<b>Violation Final Penalty Total</b>		\$1,050	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>						\$1,050	

## Economic Benefit Worksheet

**Respondent** New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba F  
**Case ID No.** 35956  
**Reg. Ent. Reference No.** RN101803757  
**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
<i>No commas or \$</i>							

### Delayed Costs

Equipment	\$3,500	29-Apr-2008	29-Dec-2008	0.67	\$8	\$156	\$164
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to upgrade the Stage II equipment to ORVR compatible systems, and replace the supreme grade no. 8 nozzle. Date Required is the date of 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				0.00	\$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

\$3,500

TOTAL

\$164

<b>Screening Date</b> 27-May-2008	<b>Docket No.</b> 2008-0879-PST-E	<b>PCW</b>			
<b>Respondent</b> New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friends	<i>Policy Revision 2 (September 2002)</i>				
<b>Case ID No.</b> 35956	<i>PCW Revision June 12, 2008</i>				
<b>Reg. Ent. Reference No.</b> RN101803757					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Rajesh Acharya					
<b>Violation Number</b> 3					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.248(2) and Tex. Health & Safety Code § 382.085(b)				
<b>Violation Description</b>	Failed to ensure that at least one Station representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system within three months of departure of the previously trained employee.				
<b>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>			<b>Percent</b>	
	Major	Moderate	Minor		
	Actual	Potential	Potential		
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	10%	
<b>&gt;&gt; Programmatic Matrix</b>					
	Major	Moderate	Minor	<b>Percent</b>	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	0%	
<b>Matrix Notes</b>	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.				
<b>Adjustment</b>		\$9,000			
				\$1,000	
<b>Violation Events</b>					
Number of Violation Events		1	Number of violation days		
		28			
mark only one with an x	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>		
	monthly	<input type="checkbox"/>			
	quarterly	<input checked="" type="checkbox"/>			\$1,000
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input type="checkbox"/>			
One quarterly event is recommended based on documentation of the violation during the April 29, 2008 investigation to the May 27, 2008 screening date.					
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0		
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>				
Ordinary	<input type="checkbox"/>				
N/A	<input checked="" type="checkbox"/>	(mark with x)			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.				
		<b>Violation Subtotal</b>		\$1,000	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
Estimated EB Amount		\$17	Violation Final Penalty Total		
				\$1,050	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,050	

## Economic Benefit Worksheet

**Respondent** New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba Fr

**Case ID No.** 35956

**Reg. Ent. Reference No.** RN101803757

**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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	\$500	29-Apr-2008	29-Dec-2008	0.67	\$17	n/a	\$17
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 of training for a Stage II Station representative. Date Required is the investigation date. Final Date is the estimated compliance date.

### 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**

\$17

<b>Screening Date</b> 27-May-2008	<b>Docket No.</b> 2008-0879-PST-E	<b>PCW</b>																			
<b>Respondent</b> New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friends	<i>Policy Revision 2 (September 2002)</i>																				
<b>Case ID No.</b> 35956	<i>PCW Revision June 12, 2008</i>																				
<b>Reg. Ent. Reference No.</b> RN101803757																					
<b>Media [Statute]</b> Petroleum Storage Tank																					
<b>Enf. Coordinator</b> Rajesh Acharya																					
<b>Violation Number</b> 4																					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)																				
<b>Violation Description</b>	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, 2007.																				
<b>Base Penalty</b>		\$10,000																			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																					
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td rowspan="2" style="text-align: right; vertical-align: middle;"><b>Percent</b> <input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		Harm																			
Release	Major	Moderate	Minor																		
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="0%"/>																	
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																		
<b>&gt;&gt; Programmatic Matrix</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td rowspan="2" style="text-align: right; vertical-align: middle;"><b>Percent</b> <input type="text" value="10%"/></td> </tr> </table>		Falsification	Major	Moderate	Minor			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="10%"/>								
	Falsification	Major	Moderate	Minor																	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="10%"/>																
<b>Matrix Notes</b>	100% of the rule requirement was not met.																				
<b>Adjustment</b>		\$9,000																			
		\$1,000																			
<b>Violation Events</b>																					
Number of Violation Events	<input type="text" value="1"/>	Number of violation days																			
	<input type="text" value="301"/>																				
<i>mark only one with an x</i>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>monthly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>quarterly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>semiannual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>annual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	<input type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input checked="" type="checkbox"/>	<b>Violation Base Penalty</b>							
daily	<input type="checkbox"/>																				
monthly	<input type="checkbox"/>																				
quarterly	<input type="checkbox"/>																				
semiannual	<input type="checkbox"/>																				
annual	<input type="checkbox"/>																				
single event	<input checked="" type="checkbox"/>																				
		\$1,000																			
One single event is recommended.																					
<b>Good Faith Efforts to Comply</b>																					
0.0% Reduction		\$0																			
Before NOV      NOV to EDPRP/Settlement Offer																					
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>																			
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>																			
N/A	<input checked="" type="checkbox"/>	(mark with x)																			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.																				
<b>Violation Subtotal</b>		\$1,000																			
<b>Economic Benefit (EB) for this violation</b>																					
<b>Statutory Limit Test</b>																					
Estimated EB Amount	<input type="text" value="\$7"/>	Violation Final Penalty Total																			
		\$1,050																			
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,050																			

## Economic Benefit Worksheet

**Respondent:** New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba Fr

**Case ID No.:** 35956

**Reg. Ent. Reference No.:** RN101803757

**Media:** Petroleum Storage Tank

**Violation No.:** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				0.00	\$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	1-Jul-2007	29-Dec-2008	1.50	\$7	n/a	\$7

**Notes for DELAYED costs**

Estimated cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form. 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				0.00	\$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**

\$7

<b>Screening Date</b> 27-May-2008	<b>Docket No.</b> 2008-0879-PST-E	<b>PCW</b>	
<b>Respondent</b> New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friends	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 35956	<i>PCW Revision June 12, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN101803757			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Rajesh Acharya			
<b>Violation Number</b> 5			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)		
<b>Violation Description</b>	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.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
<b>Actual</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Potential</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Percent</b>			5%
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major      Moderate      Minor			
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
<b>Percent</b>			0%
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
<b>Adjustment</b>			\$9,500
			\$500
<b>Violation Events</b>			
<b>Number of Violation Events</b>		1	<b>Number of violation days</b>
		1	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
single event	<input checked="" type="checkbox"/>	\$500	
One single event is recommended.			
<b>Good Faith Efforts to Comply</b>		0.0% Reduction	\$0
		Before NOV      NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>			\$500
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		\$0	<b>Violation Final Penalty Total</b>
			\$525
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$525

## Economic Benefit Worksheet

**Respondent** New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba Fr  
**Case ID No.** 35956  
**Reg. Ent. Reference No.** RN101803757  
**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 4.

**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				0.00	\$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

\$0

TOTAL

\$0

# Compliance History

Customer/Respondent/Owner-Operator:	CN602689176 New Star Holdings, L.L.C.	Classification: AVERAGE	Rating: 14.80
Regulated Entity:	RN101803757 FRIENDSWOOD TEXACO 106	Classification: AVERAGE	Site Rating: 6.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		69347
Location:	4550 FM 2351 RD, FRIENDSWOOD, TX, 77546	Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 02, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 02, 2003 to June 02, 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? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- 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 | 04/10/2007 | (542290) |  |
|     | 2 | 05/16/2008 | (654609) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |  |                 |          |
|--------------|--|-----------------|----------|
| Date:        | 04/10/2007   | (542290)        |          |
| Self Report? | NO   | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.245(2)                  |                 |          |
| Description: | Annual and/or Triennial testing not successfully conducted.  |                 |          |
| Self Report? | NO   | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.246(5)                  |                 |          |
| Description: | Failure to have copies of test results on-site indefinitely. |                 |          |
| Self Report? | NO   | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(A)               |                 |          |
| Description: | Required components were disconnected or absent.             |                 |          |
| Self Report? | NO   | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(L)               |                 |          |
| Description: | Failure to have the appropriate nozzle installed.            |                 |          |
- 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

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603436700 Northstar Equities, Inc.	Classification: AVERAGE	Rating: 4.00
Regulated Entity:	RN101803757 FRIENDSWOOD TEXACO 106	Classification: AVERAGE	Site Rating: 4.00
ID, Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	69347
Location:	4550 FM 2351 RD, FRIENDSWOOD, TX, 77546		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	January 21, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 21, 2003 to January 21, 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? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |
| 6. Rating Date: September 01 08 Repeat Violator: No  |     |

### 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 | 04/10/2007 | (542290) |  |
| N/A | 2 | 05/16/2008 | (654609) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |     |              |  |          |                          |
|-----|--------------|--|----------|--------------------------|
|     | Date:        | 04/10/2007   | (542290) |                          |
| N/A | Self Report? | NO   |          | Classification: Moderate |
|     | Citation:    | 30 TAC Chapter 115, SubChapter C 115.245(2)                  |          |                          |
|     | Description: | Annual and/or Triennial testing not successfully conducted.  |          |                          |
|     | Self Report? | NO   |          | Classification: Moderate |
|     | Citation:    | 30 TAC Chapter 115, SubChapter C 115.246(5)                  |          |                          |
|     | Description: | Failure to have copies of test results on-site indefinitely. |          |                          |
|     | Self Report? | NO   |          | Classification: Moderate |
|     | Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(A)               |          |                          |
|     | Description: | Required components were disconnected or absent.             |          |                          |
|     | Self Report? | NO   |          | Classification: Moderate |
|     | Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(L)               |          |                          |
|     | Description: | Failure to have the appropriate nozzle installed.            |          |                          |
- 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  
NEW STAR HOLDINGS, L.L.C.  
DBA FRIENDSWOOD TEXACO  
106 AKA FRIENDSWOOD SHELL  
AND NORTHSTAR EQUITIES,  
INC. DBA FRIENDSWOOD  
TEXACO 106 AKA  
FRIENDSWOOD SHELL;  
RN101803757**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2008-0879-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 respondents, and the revocation of the respondents' fuel delivery certificate. The respondents made the subject of this Order are New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell ("New Star"), and Northstar Equities, Inc. dba Friendswood Texaco 106 aka Friendswood Shell ("Northstar") (collectively the "Respondents").

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

**FINDINGS OF FACT**

1. New Star owns and Northstar operates a convenience station with retail sales of gasoline located at 4550 Farm-to-Market Road 2351, Friendswood, Harris County, Texas (the "Station").
2. The Respondents' three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Respondents' USTs contain a regulated petroleum substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. During an investigation conducted on April 29, 2008, a TCEQ Houston Regional Office investigator documented that the Respondents:
  - a. Failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel. Specifically, Stage II test results were not available for review;
  - b. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems and failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the nozzle for supreme grade No. 8 was an incorrect nozzle type and not approved for use with the Stage II system at the Station;
  - c. Failed to ensure that at least one Station representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system within three months of departure of the previously trained employee;
  - d. 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, 2007; and
  - e. 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.
4. Respondents received notice of the violations on or about May 21, 2008.
5. The Executive Director recognizes that the Respondents submitted a UST registration and self-certification form in August 2008 and received a valid current delivery certificate with an expiration date of July 2009.
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 New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc." (the "EDPRP") in the TCEQ Chief Clerk's office on October 22, 2008.

7. By letter dated on October 22, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served the Respondents with notice of the EDPRP.<sup>1</sup> According to the return receipt "green card," the Respondents received notice of the EDPRP on October 27, 2008, as evidenced by the signature on the card.
8. More than 20 days have elapsed since the Respondents received notice of the EDPRP, provided by the Executive Director. The Respondents 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, the Respondents 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 No. 3.a., the Respondents failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., the Respondents failed to upgrade the Stage II equipment to ORVR compatible systems and failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(1)(C), (3)(L), and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 3.c., the Respondents failed to ensure that at least one Station representative receives training and instruction in the operation and maintenance of the Stage II vapor recovery system within three months of departure of the previously trained employee, in violation of 30 TEX. ADMIN. CODE § 115.248(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 3.d., the Respondents 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, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii).

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<sup>1</sup> According to the Texas Secretary of State, New Star and Northstar share a common principle and a common registered agent, thus, notice was delivered to both entities at the same address.

6. As evidenced by Finding of Fact No. 3.e., the Respondents failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a).
7. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served the Respondents 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, the Respondents 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 the 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 the Respondents for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of four thousand seven hundred twenty-five dollars (\$4,725.00) 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. 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.
12. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Respondent's UST fuel delivery certificate if the Commission finds that good cause exists.
13. Good cause for revocation of the Respondent's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2, 3, 6, 7 and 8, and Conclusions of Law Nos. 2 through 8.

### ORDERING PROVISIONS

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

1. The Respondents are jointly and severally assessed an administrative penalty in the amount of four thousand seven hundred twenty-five dollars (\$4,725.00) for violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and rules of the TCEQ. The payment of this administrative penalty and the Respondents' 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: New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba Friendswood Texaco 106 aka Friendswood Shell; Docket No. 2008-0879-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 Respondent's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. The Respondents may submit an application for a new fuel delivery certificate only after Respondents have complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Respondents shall send their UST fuel delivery certificate to:

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

4. The Respondents shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, the Respondents shall begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246.
- b. Within 30 days after the effective date of this Order, the Respondents shall:
  - i. Ensure that at least one Station representative successfully completes the required Stage II training in the operation and maintenance of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248; and
  - ii. Begin maintaining the Stage II vapor recovery system in proper operating condition including but not limited to upgrading the Stage II equipment to ORVR compatible systems, installing an approved nozzle on the supreme grade no. 8 dispenser, and conducting successful Stage II vapor recovery tests after completing the ORVR upgrade, in accordance with TEX. ADMIN. CODE § 115.242.
- c. Within 45 days after the effective date of this Order, the 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 Nos. 4.a. through 4.b.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Nicole Bealle, Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
7. If the Respondents fail 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, The Respondents' failure to comply is not a violation of this Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. 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 the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. 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 the Respondents if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Order.
10. 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.
11. 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.

New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell, and Northstar Equities, Inc. dba  
Friendswood Texaco 106 aka Friendswood Shell  
DOCKET NO. 2008-0879-PST-E  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc. dba  
Friendswood Texaco 106 aka Friendswood Shell  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF PEIPEY TANG**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §.

“My name is Peipey Tang. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of New Star Holdings, L.L.C. dba Friendswood Texaco 106 aka Friendswood Shell and Northstar Equities, Inc.” (the “EDPRP”) with the Office of the Chief Clerk on October 22, 2008.

I sent the EDPRP to New Star Holdings and Northstar Equities at its last known address on October 22, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” New Star Holdings and Northstar Equities received notice of the EDPRP on October 27, 2008, as evidenced by the signature on the card.

More than 20 days have elapsed since New Star Holdings and Northstar Equities received notice of the EDPRP. New Star Holdings and Northstar Equities failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

Peipey Tang  
Peipey Tang  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Peipey Tang, 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 28<sup>th</sup> day of JANUARY , A.D., 2009.

Margaret Wilson  
Notary Signature

Notary Stamp

