

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-1279-PST-E TCEQ ID: RN102893492 CASE NO.: 36332**  
**RESPONDENT NAME: AZY CORPORATION, INC.**

<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 AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 14623 Buffalo Speedway, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with two inactive USTs</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired March 23, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Mr. James Nolan, Air Enforcement Section, MC 149, (512) 239-6634  <b>TCEQ Regional Contact:</b> Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623  <b>Respondent:</b> Mr. Mohammed Hanif, Director, AZY Management, Inc., 14623 Buffalo Speedway, Houston, Texas 77045  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" 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> June 11, 2008</p> <p><b>Date of NOE Relating to this Case:</b> June 26, 2008</p> <p><b>Background Facts:</b> The EDP RP was filed on December 23, 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 EDP RP on December 26, 2008, as evidenced by the signature on the card. The Respondent has failed to answer the EDP RP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Compliance Status:</b> Not yet in compliance.</p> <p><b>PST:</b> Failed to permanently remove two USTs from service [30 TEX. ADMIN CODE § 334.47(a)(2)].</p>	<p><b>Total Assessed:</b> \$10,500</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> \$10,500</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><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>Ordering Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, permanently remove the two USTs from service.</li> <li>2. Within 45 days, submit written certification supporting documentation to demonstrate compliance with these Ordering Provisions.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	14-Jul-2008	Screening	6-Aug-2008	EPA Due	
	PCW	23-Feb-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	AZY Corporation, Inc.
Reg. Ent. Ref. No.	RN102893492
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36332	No. of Violations	1
Docket No.	2008-1279-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	James Nolan
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$10,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 5.0% Enhancement Subtotals 2, 3, & 7 \$500

Notes The Respondent has received one previous NOV for the same or similar violations in the past five years.

**Culpability** No 0.0% Enhancement Subtotal 4 \$0

Notes The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5 \$0

**Economic Benefit** 0.0% Enhancement\* Subtotal 6 \$0

Total EB Amounts	\$3,599
Approx. Cost of Compliance	\$5,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$10,500

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** \$10,500

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$10,500

**DEFERRAL** 0.0% Reduction Adjustment \$0

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

Notes Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** \$10,500

Screening Date 6-Aug-2008

Docket No. 2008-1279-PST-E

PCW

Respondent AZY Corporation, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36332

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102893492

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Nolan

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

The Respondent has received one previous NOV for the same or similar violations in the past five years.

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

Screening Date 6-Aug-2008

Docket No. 2008-1279-PST-E

PCW

Respondent AZY Corporation, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36332

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102893492

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Nolan

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.47(a)(2)

Violation Description

Failed to permanently remove an underground storage tank ("UST") system from service, as documented during a record review conducted on June 11, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>>Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Failure to properly remove tanks from service could result in the release of a significant amount of pollutants which would exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 4 56 Number of violation days

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Four monthly events (two per tank) are recommended based upon the record review date of June 11, 2008 to the screening date of August 6, 2008.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,599

Violation Final Penalty Total \$10,500

This violation Final Assessed Penalty (adjusted for limits) \$10,500

## Economic Benefit Worksheet

**Respondent** AZY Corporation, Inc.  
**Case ID No.** 38332  
**Reg. Ent. Reference No.** RN102893492  
**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
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$5,000	22-Dec-1998	1-Apr-2009	10.28	\$171	\$3,427	\$3,599
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 permanently remove the two tanks from service. Date required is the date when the Respondent was required to upgrade the UST system and Final date is when compliance is expected to be achieved.

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**  
 (Empty box for notes)

Approx. Cost of Compliance \$5,000
TOTAL \$3,599

# Compliance History

Customer/Respondent/Owner-Operator:	CN603389073	AZY CORPORATION, INC.	Classification: AVG	Rating: 1.50
Regulated Entity:	RN102893492	BUFFALO DR INN GROCERY	Classification: AVG	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	3647
Location:	14623 BUFFALO SPEEDWAY, HOUSTON, TX, 77045			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	July 29, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 29, 2003 to July 29, 2008			

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

Name: Audra Ruble Phone: (361) 825-3126

### 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.)
    - 1 02/22/2007 (540109)
    - 2 06/26/2008 (682773)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
    - Date: 02/22/2007 (540109)
    - Self Report? NO Classification: Moderate
    - Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
    - Description: Failure to have out of operation tank upgraded to meet all technical standards.
  - 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  
AZY CORPORATION, INC.;  
RN102893492

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## DEFAULT ORDER DOCKET NO. 2008-1279-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 AZY Corporation, Inc. ("AZY").

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

### FINDINGS OF FACT

1. AZY owns and operates a convenience store located at 14623 Buffalo Speedway, Houston, Harris County, Texas (the "Facility").
2. AZY's two underground storage tank(s) ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. AZY 's USTs contain a regulated substance as defined in the rules of the Commission.
3. During a record review conducted on June 11, 2008, a TCEQ Houston Regional Office investigator documented that AZY failed to permanently remove two USTs from service. Specifically, the Facility has two USTs which are empty but have not been permanently removed or upgraded to meet technical standards.
4. AZY received notice of the violation on or about July 1, 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 AZY Corporation, Inc.” (the “EDPRP”) in the TCEQ Chief Clerk’s office on December 23, 2008.

6. By letter dated December 23, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served AZY with notice of the EDPRP. According to the return receipt “green card,” the Respondent received notice of the EDPRP on December 26, 2008, as evidenced by the signature on the card.
7. More than 20 days have elapsed since AZY received notice of the EDPRP, provided by the Executive Director. AZY 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, AZY 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, AZY failed to permanently remove two USTs from service, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served AZY with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, AZY has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against AZY and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against AZY 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.
6. An administrative penalty in the amount of ten thousand five hundred dollars (\$10,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

## ORDERING PROVISIONS

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

1. AZY is assessed an administrative penalty in the amount of ten thousand five hundred dollars (\$10,500.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and AZY'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: AZY Corporation, Inc.; Docket No. 2008-1279-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. AZY shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of the Commission Order, AZY shall permanently remove the two USTs from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
  - b. Within 45 days after the effective date of the Commission Order, AZY 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 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.”

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

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon AZY. AZY is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
5. If AZY 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, AZY's failure to comply is not a violation of this Order. AZY shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. AZY shall notify the Executive Director within seven days after AZY 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 AZY shall be made in writing to the Executive Director. Extensions are not effective until AZY 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 AZY if the Executive Director determines that AZY 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

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For the Commission

**AFFIDAVIT OF PHILLIP M. GOODWIN**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Phillip M. Goodwin. 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 AZY Corporation, Inc.” (the “EDPRP”) was filed with the Office of the Chief Clerk on December 23, 2008.

I sent the EDPRP to AZY at its last known address on December 23, 2008 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 December 26, 2008, as evidenced by the signature on the card, in accordance with 30 TEX. ADMIN. CODE § 70.104(a).

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



\_\_\_\_\_  
Phillip M. Goodwin  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, 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 27 day of January A.D., 2009.



  
\_\_\_\_\_  
Notary Signature