

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0109-PST-E TCEQ ID: RN102014289 CASE NO.: 35229
RESPONDENT NAME: SUE GOINS DBA 67 BAIT SHOP

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 VIOLATIONS OCCURRED: 610 United States Highway 67 East, Naples, Morris County

TYPE OF OPERATION: A facility that formerly included two USTs

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 July 6, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5825

TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (512) 239-2136

Respondent: Ms. Sue Goins, Owner, 67 Bait Shop, 610 U.S. Highway 67 East, Naples, Texas 75568

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 13, 2007</p> <p>Date of NOE Relating to this Case: November 20, 2007</p> <p>Background Facts: The EDRP was filed August 25, 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 EDRP on August 27, 2008. The EDFARP was filed November 26, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The EDSARP was filed April 9, 2009, 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 EDSARP on April 13, 2009. The Respondent failed to answer either the EDRP, EDFARP or EDSARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent does not have a delivery certificate.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to provide an amended UST registration to the TCEQ for any change or additional information regarding USTs within 30 days from the date of occurrence of the change [30 TEX. ADMIN. CODE § 334.7(d)(3)]. Failed to properly notify the agency of the initiation of any proposed major UST activity between 24 and 72 hours prior to the commencement of the construction activity [TEX. ADMIN. CODE § 334.6(b)(1)(A)]. 	<p>Total Assessed: \$9,900</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: \$9,900</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Cease UST installation, repair, or removal activities until a licensed on-site supervisor is utilized; and Establish and implement a process for notifying the agency of the initiation of any proposed major activity. Within 30 days, submit an amended registration to reflect the current contact information and the operational status of the USTs. Within 90 days, conduct a site assessment. Within 120 days, submit written certification demonstrating compliance with these Ordering Provisions.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to conduct a site assessment in response to the permanent removal from service of a UST system [30 TEX. ADMIN. CODE § 334.55(a)(6)(B)(ii)].</p> <p>4. Failed to utilize a licensed on-site supervisor to perform and supervise the UST removal activity [30 TEX. ADMIN. CODE § 334.401(a)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

TCEQ

DATES	Assigned	27-Dec-2007	Screening	7-Jan-2008	EPA Due	
	PCW	24-Jun-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Sue Goins dba 67 Bait Shop
Reg. Ent. Ref. No.	RN102014289
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35229	No. of Violations	4
Docket No.	2008-0109-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
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	\$7,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
Compliance History	5% Enhancement	Subtotals 2, 3, & 7 \$350
Notes	Enhancement for one Notice of Violation with same or similar violations.	
Culpability	No 0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply	0% Reduction	Subtotal 5 \$0
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)
Notes	The Respondent does not meet the good faith criteria.	
	0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$2,660	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,150	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,350
OTHER FACTORS AS JUSTICE MAY REQUIRE	35% Adjustment	\$2,550
Reduces or enhances the Final Subtotal by the indicated percentage.		
Notes	Recommended enhancement to capture avoided cost of compliance associated with violation nos. 2 and 4.	
	Final Penalty Amount	\$9,900
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$9,900
DEFERRAL	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		\$9,900

Screening Date 7-Jan-2008

Docket No. 2008-0109-PST-E

PCW

Respondent Sue Goins dba 67 Bait Shop

Policy Revision 2 (September 2002)

Case ID No. 35229

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102014289

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

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) 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 Notice of Violation with same or similar violations.

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

Screening Date 7-Jan-2008	Docket No. 2008-0109-PST-E	PCW
Respondent Sue Goins dba 67 Bait Shop		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 35229		<small>PCW Revision November 6, 2007</small>
Reg. Ent. Reference No. RN102014289		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.7(d)(3)"/>	
Violation Description	Failed to provide an amended UST registration to the TCEQ for any change or additional information regarding USTs within 30 days from the date of occurrence of the change. Specifically, the registration was not updated to reflect the current contact information and the operational status of the USTs.	
	Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		x	<input type="text"/>	<input type="text"/>	
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>				
					Adjustment <input type="text" value="\$9,000"/>

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="55"/>	Number of violation days												
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="width:100px;">daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	Violation Base Penalty <input type="text" value="\$1,000"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	x													
<input type="text" value="One single event is recommended based on documentation of the violation during the November 13, 2007 investigation."/>														

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$4"/>	Violation Final Penalty Total <input type="text" value="\$1,414"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,414"/>	

Economic Benefit Worksheet

Respondent Sue Goins dba 67 Bait Shop
Case ID No. 35229
Reg. Ent. Reference No. RN102014289
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	13-Nov-2007	13-Sep-2008	0.8	\$4	n/a	\$4

Notes for DELAYED costs Estimated cost to amend the UST registration. The date required is the date of the investigation. The final date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$4

Screening Date 7-Jan-2008

Docket No. 2008-0109-PST-E

PCW

Respondent Sue Goins dba 67 Bait Shop

Policy Revision 2 (September 2002)

Case ID No. 35229

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102014289

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

Matrix Notes

Adjustment

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Sue Goins dba 67 Bait Shop
Case ID No. 35229
Reg. Ent. Reference No. RN102014289
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$50	10-Nov-2007	13-Nov-2007	0.0	\$0	\$50	\$50

Notes for AVOIDED costs

Estimated avoided cost to notify the agency of the UST removal activity. The date required is one day prior to the November 11, 2007 UST removal date. The final date is the date of the investigation.

Approx. Cost of Compliance

\$50

TOTAL

\$50

Screening Date 7-Jan-2008

Docket No. 2008-0109-PST-E

PCW

Respondent Sue Goins dba 67 Bait Shop

Policy Revision 2 (September 2002)

Case ID No. 35229

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN102014289

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.55(a)(6)(B)(ii)

Violation Description Failed to conduct a site assessment in response to the permanent removal from service of an UST system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 55

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the November 13, 2007 investigation to the January 7, 2008 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$3,536

This violation Final Assessed Penalty (adjusted for limits) \$3,536

Economic Benefit Worksheet

Respondent: Sue Goins dba 67 Bait Shop
Case ID No.: 35229
Reg. Ent. Reference No.: RN102014289
Media: Petroleum Storage Tank
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	13-Nov-2007	18-Sep-2008	0.8	\$106	n/a	\$106

Notes for DELAYED costs

Estimated cost to conduct a site assessment. The date required is the date of the investigation. The final date is the expected compliance date.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$106

Screening Date 7-Jan-2008	Docket No. 2008-0109-PST-E	PCW		
Respondent Sue Goins dba 67 Bait Shop		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 35229		<i>PCW Revision November 6, 2007</i>		
Reg. Ent. Reference No. RN102014289				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 334.401(a)			
Violation Description	Failed to utilize a licensed on-site supervisor to perform and supervise the UST removal activity. Specifically, the Respondent could not verify that a licensed supervisor conducted the removal of the tanks from the Facility.			
	Base Penalty	\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Percent	25%		
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Percent	0%		
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.			
	Adjustment	\$7,500		
		\$2,500		
Violation Events				
	Number of Violation Events	1	2	
		Number of violation days		
<i>mark only one with an x</i>	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"/>		
	Violation Base Penalty	\$2,500		
	One single event is recommended based on documentation of the violation during the November 13, 2007 investigation.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$2,500	Violation Final Penalty Total	\$3,536	
		This violation Final Assessed Penalty (adjusted for limits)	\$3,536	

Economic Benefit Worksheet

Respondent Sue Goins dba 67 Bait Shop
Case ID No. 35229
Reg. Ent. Reference No. RN102014289
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$2,500	11-Nov-2007	13-Nov-2007	0.0	\$0	\$2,500	\$2,500

Notes for AVOIDED costs

Estimated avoided cost to hire a licensed individual to perform the UST removal activity. The date required is the date the USTs were removed from the ground. The final date is the date of the investigation.

Approx. Cost of Compliance

\$2,500

TOTAL

\$2,500

Compliance History

Customer/Respondent/Owner-Operator:	CN603234188 GOINS, SUE	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN102014289 67 BAIT SHOP	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	19810
Location:	610 US HIGHWAY 67 E, NAPLES, TX, 75568	Rating Date: 9/1/2007	Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	January 15, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 15, 2003 to January 15, 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? | Yes |
| 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 | 09/24/2007 | (571841) | |
| 2 | 11/20/2007 | (599379) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|-----------------|----------|
| Date: | 09/24/2007 | (571841) | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.7(d)(3) | | |
| Description: | Failure to amend the site's PST Registration Information to reflect the current property owner's contact information and status of the UST system. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.6(b)(1)(A)(ii) | | |
| Description: | Failure to properly notify of the initiation of a proposed major UST activity with the appropriate TCEQ region office between 24 and 72 hours prior to the commencement of the construction activity. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter C 334.55(a)(6)(B)(ii) | | |
| Description: | Failure to conduct a site assessment in response to the permanent removal from service of an UST system. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter I 334.401(a) | | |
| Description: | Failure to utilize a property licensed individual to perform a regulated activity at the PST facility | | |
- 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
SUE GOINS DBA 67 BAIT SHOP;
RN102014289

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2008-0109-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Second Amended 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 Sue Goins dba 67 Bait Shop ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and/or operates a facility that formerly included two underground storage tanks ("USTs") at 610 United States Highway 67 East in Naples, Morris County, Texas (the "Facility").
2. Respondent's two USTs were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Respondent's USTs contained a regulated petroleum substance as defined in the rules of the Commission.
3. During an inspection on November 13, 2007, a TCEQ investigator documented that Respondent:
 - a. Failed to provide an amended UST registration to the TCEQ for any change or additional information regarding USTs within 30 days from the date of occurrence of the change. Specifically, the registration was not updated to reflect the current contact information and the operational status of the USTs;

- b. Failed to properly notify the agency of the initiation of any proposed major UST activity between 24 and 72 hours prior to the commencement of the construction activity. Specifically, the Respondent did not notify the TCEQ about the UST removal activity;
 - c. Failed to conduct a site assessment in response to the permanent removal from service of an UST system; and
 - d. Failed to utilize a licensed on-site supervisor to perform and supervise the UST removal activity. Specifically, the Respondent could not verify that a licensed supervisor conducted the removal of the tanks from the Facility.
4. Respondent received notice of the violations on or about November 25, 2007.
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 Sue Goins dba 67 Bait Shop" (the "EDPRP") in the TCEQ Chief Clerk's office on August 25, 2008.
6. By letter dated August 25, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card", Respondent received notice of the EDPRP on August 27, 2008, as evidenced by the signature on the card.
7. The Executive Director filed the "Executive Director's First Amended 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 Sue Goins dba 67 Bait Shop" (the "EDFARP") in the TCEQ Chief Clerk's office on November 26, 2008.
8. By letter dated November 26, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDFARP.
9. The Executive Director filed the "Executive Director's Second Amended 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 Sue

Goins dba 67 Bait Shop” (the “EDSARP”) in the TCEQ Chief Clerk’s office on April 9, 2009.

10. By letter dated April 9, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDSARP. According to the return receipt “green card”, Respondent received notice of the EDSARP on April 13, 2009, as evidenced by the signature on the card.
11. More than 20 days have elapsed since Respondent received notice of the EDPRP, EDFARP and EDSARP, provided by the Executive Director. Respondent failed to file an answer to the EDPRP, EDFARP, or EDSARP, 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, Respondent 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., Respondent failed to provide an amended UST registration to the TCEQ for any change or additional information regarding USTs within 30 days from the date of occurrence of the change, in violation 30 TEX. ADMIN. CODE § 334.7(d)(3).
3. As evidenced by Finding of Fact No. 3.b., Respondent failed to properly notify the agency of the initiation of any proposed major UST activity between 24 and 72 hours prior to the commencement of the construction activity, in violation of 30 TEX. ADMIN. CODE § 334.6(b)(1)(A).
4. As evidenced by Finding of Fact No. 3.c., Respondent failed to conduct a site assessment in response to the permanent removal from service of an UST system, in violation of 30 TEX. ADMIN. CODE § 334.55(a)(6)(B)(ii).
5. As evidenced by Finding of Fact No. 3.d., Respondent failed to utilize a licensed on-site supervisor to perform and supervise the UST removal activity, in violation of 30 TEX. ADMIN. CODE § 334.401(a).
6. As evidenced by Finding of Fact Nos. 5, 6, 9, and 10, the Executive Director timely served Respondent with proper notice of the EDPRP and EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

7. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
8. As evidenced by Finding of Fact No. 11, Respondent failed to file a timely answer to the EDPRP, EDFARP, or EDSARP, 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 Respondent 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 Respondent 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.
10. An administrative penalty in the amount of nine thousand nine hundred dollars (\$9,900.00) 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.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of nine thousand nine hundred dollars (\$9,900.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Respondent'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: Sue Goins dba 67 Bait Shop; Docket No. 2008-0109-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. Respondent shall undertake the following technical requirements:

a. Immediately upon the effective date of this Order, Respondent shall:

- i. cease UST installation, repair, or removal activities until a licensed on-site supervisor is utilized, in accordance with 30 TEX. ADMIN. CODE § 334.401; and
- ii. establish and implement a process for notifying the agency of the initiation of any proposed major UST activity, in accordance with 30 TEX. ADMIN. CODE § 334.6.

b. Within 30 days after the effective date of this Order, Respondent shall submit an amended registration to reflect the current contact information and the operational status of the USTs, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Remediation Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 90 days after the effective date of this Order, Respondent shall conduct a site assessment, in accordance with 30 TEX. ADMIN. CODE § 334.55.
- d. Within 120 days after the effective date of this Order, Respondent 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. 2.a. through 2.c. 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:

Michael Brashear, Waste Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

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

to the Executive Director. Extensions are not effective until Respondent 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 Respondent if the Executive Director determines that Respondent 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 GARY K. SHIU

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Gary K. Shiu. 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 Sue Goins dba 67 Bait Shop” (the “EDPRP”) was filed with the Office of the Chief Clerk on August 25, 2008.

I sent the EDPRP to Respondent at her last known address on August 25, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Respondent received notice of the EDPRP on August 27, 2008, as evidenced by the signature on the card.

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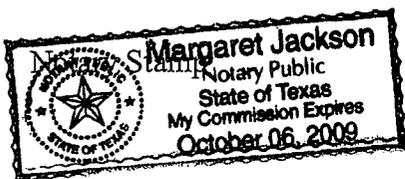
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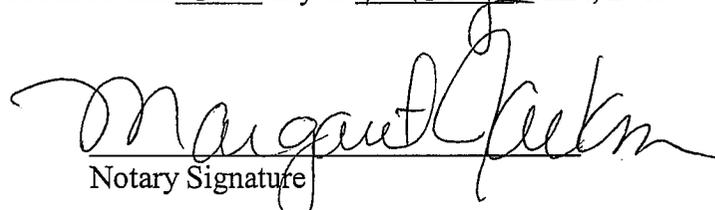


Gary K. Shiu
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Gary K. Shiu, 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 20 day of May, A.D., 2009.





Notary Signature