

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0281-PST-E TCEQ ID: RN102219763 CASE NO.: 35449**  
**RESPONDENTS NAMES: THOMAS JONES AND MARY JONES**

<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
<p><b>SITE WHERE VIOLATIONS OCCURRED:</b> 28042 US Highway 377 in Gordonville, Grayson County</p> <p><b>TYPE OF OPERATION:</b> former gasoline service station</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 Respondents expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired September 7, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789  <b>TCEQ Regional Contact:</b> Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903  <b>Respondents:</b> Mr. Thomas Jones and Ms. Mary Jones, 2178 Liberty Road, Gordonville, Texas 76245-2911  <b>Respondents' 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 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> February 5, 2008</p> <p><b>Date of NOE Relating to this Case:</b> February 7, 2008</p> <p><b>Background Facts:</b> An EDP RP against respondent Thomas Jones was filed on April 28, 2008, and mailed via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Jones received notice of the EDP RP on April 30, 2008. Respondent Mary Jones was added, and an EDFARP was filed on March 3, 2009. According to the return receipt "green card," Respondents received notice of the EDFARP on March 5, 2009. The EDSARP was filed on June 16, 2009, and mailed to the Respondents 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, indicating that Respondents received notice of the EDSARP. Thomas Jones failed to answer the EDP RP, failed to request a hearing, and failed to schedule a settlement conference. Respondents answered neither the EDFARP nor the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance. Respondents do not have a delivery certificate.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</li> <li>Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</li> </ol>	<p><b>Total Assessed:</b> \$ 3,675</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> \$3,675</p> <p>This is a Default Order. Respondents have not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Thomas Jones</b>  <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>Mary Jones</b>  <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 Provisions:</b></p> <p>Respondents shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 30 days:             <ol style="list-style-type: none"> <li>Permanently remove the UST system from service; and</li> <li>Submit an amended registration to reflect the current address and operational status of the USTs.</li> </ol> </li> <li>Within 45 days, submit written certification demonstrating compliance with these Ordering Provisions.</li> </ol>



# Penalty Calculation Worksheet (PCW)

**TCEQ**

<b>DATES</b>	Assigned	11-Feb-2008	Screening	22-Feb-2008	EPA Due	
	PCW	26-Jan-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Thomas Jones and Mary Jones
Reg. Ent. Ref. No.	RN102219763
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35449	No. of Violations	2
Docket No.	2008-0281-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Elvia Maske
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply**  Reduction **Subtotal 5**

Before NOV      NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 22-Feb-2008

**Docket No.** 2008-0281-PST-E

**PCW**

**Respondent** Thomas Jones and Mary Jones

Policy Revision 2 (September 2002)

**Case ID No.** 35449

PCW Revision January 29, 2008

**Reg. Ent. Reference No.** RN102219763

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Elvia Maske

**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%
<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 NOV with same or similar violations.

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

<b>Screening Date</b> 22-Feb-2008	<b>Docket No.</b> 2008-0281-PST-E	<b>PCW</b>
<b>Respondent</b> Thomas Jones and Mary Jones	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35449	<i>PCW Revision January 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102219763		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Elvia Maske		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.47(a)(2)	
<b>Violation Description</b>	Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

**>> Environmental, Property and Human Health Matrix**

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

**>> Programmatic Matrix**

<b>Matrix Notes</b>	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					<b>Percent</b> <input type="text" value="0%"/>
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.					
					<b>Adjustment</b> <input type="text" value="\$7,500"/>

**Violation Events**

<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="17"/>	<b>Number of violation days</b>												
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="text" value="x"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text" value="x"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
daily	<input type="text"/>													
monthly	<input type="text" value="x"/>													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
One monthly event is recommended based on documentation of the violation during from the February 5, 2008 investigation to the February 22, 2008 screening date.														

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$3,887"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,625"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,625"/>	

## Economic Benefit Worksheet

**Respondent:** Thomas Jones and Mary Jones  
**Case ID No.:** 35449  
**Reg. Ent. Reference No.:** RN102219763  
**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
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)	\$7,500	22-Dec-1998	1-May-2009	10.4	\$3,887	n/a	\$3,887

Notes for DELAYED costs

Estimated cost to permanently remove from service three USTs with a combined capacity of 10,000 gallons (two 4,000 gallon and one 2,000 gallon) at \$0.75 per gallon. The date required is the date when the Respondent was required to upgrade the UST system and the final date is the estimated date of compliance. □

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,500

TOTAL

\$3,887

<b>Screening Date</b> 22-Feb-2008	<b>Docket No.</b> 2008-0281-PST-E	<b>PCW</b>
<b>Respondent</b> Thomas Jones and Mary Jones	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35449	<i>PCW Revision January 29, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN102219763		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Elvia Maske		
<b>Violation Number</b> <input type="text" value="2"/>		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.7(d)(3)	
<b>Violation Description</b>	Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, as applicable. Specifically, the registration was not updated to reflect the current address, and out of service status of the USTs.	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

**>> Environmental, Property and Human Health Matrix**

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

**>> Programmatic Matrix**

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

**Violation Events**

<b>Number of Violation Events</b> <input type="text" value="1"/>		<input type="text" value="17"/> <b>Number of violation days</b>	
<i>mark only one with an x</i>	<b>daily</b>	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
	<b>monthly</b>	<input type="text"/>	
	<b>quarterly</b>	<input type="text"/>	
	<b>semiannual</b>	<input type="text"/>	
	<b>annual</b>	<input type="text"/>	
	<b>single event</b>	<input type="text" value="x"/>	
One single event is recommended based on documentation of the violation during the February 5, 2008 record review date to the February 22, 2008 screening date.			

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$6"/>	<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:** Thomas Jones and Mary Jones  
**Case ID No.** 35449  
**Reg. Ent. Reference No.** RN102219763  
**Media:** Petroleum Storage Tank  
**Violation No.** 2

<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
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	5-Feb-2008	1-May-2009	1.2	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to submit an amended UST registration form to the TCEQ. The date required is the record review date and the final date is the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$6

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603316720 JONES, THOMAS Classification: AVERAGE Rating: 2.00  
Regulated Entity: RN102219763 JONES SERVICE CENTER Classification: AVERAGE Site Rating: 2.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 21661  
REGISTRATION  
Location: 28042 US HIGHWAY 377, GORDONVILLE, TX, 76245 Rating Date: September 01 07 Repeat Violator:  
TCEQ Region: REGION 04 - DFW METROPLEX NO  
Date Compliance History Prepared: February 25, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 25, 2003 to February 25, 2008

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

Name: Elvia Maske Phone: (512) 239 - 0789

## 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. 08/12/2007 (567373)
    2. 02/07/2008 (617416)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/10/2007 (567373)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to update UST Registration Form to accurately reflect ownership change and tank status.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to perform the permanent removal of a UST that has not met upgrade requirements.
  - 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: CN603441593 JONES, MARY Classification: AVERAGE Rating: 2.00  
Regulated Entity: RN102219763 JONES SERVICE CENTER Classification: AVERAGE Site Rating: 2.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 21661  
REGISTRATION  
Location: 28042 US HIGHWAY 377, GORDONVILLE, TX, 76245 Rating Date: September 01 07 Repeat Violator:  
TCEQ Region: REGION 04 - DFW METROPLEX NO  
Date Compliance History Prepared: February 25, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 25, 2003 to February 25, 2008

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

Name: Elvia Maske Phone: (512) 239 - 0789

## 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. 08/12/2007 (567373)  
2. 02/07/2008 (617416)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 08/10/2007 (567373)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)  
Description: Failure to update UST Registration Form to accurately reflect ownership change and tank status.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)  
Description: Failure to perform the permanent removal of a UST that has not met upgrade requirements.
- 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  
THOMAS JONES AND  
MARY JONES;  
RN102219763

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§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2008-0281-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 respondents made the subject of this Order are Thomas Jones and Mary Jones (jointly referred to as "Respondents").

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

**FINDINGS OF FACT**

1. Respondents own and formerly operated a gasoline service station, which is now closed, located at 28042 US Highway 377 in Gordonville, Grayson County, Texas (the "Facility").
2. Respondents' underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Respondents' USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During an inspection conducted on February 5, 2008, a TCEQ Dallas-Fort Worth Regional Office investigator documented Respondents:
  - a. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and
  - b. Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, as

applicable. Specifically, the registration was not updated to reflect the current address, and out of service status of the USTs.

4. Respondents received notice of the violations on or about February 12, 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 Thomas Jones" (the "EDPRP") in the TCEQ Chief Clerk's office on April 28, 2008.
6. By letter dated April 28, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served respondent Thomas Jones with notice of the EDPRP. According to the return receipt "green card," Thomas Jones received notice of the EDPRP on April 30, 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 Thomas Jones and Mary Jones" (the "EDFARP") in the TCEQ Chief Clerk's office on March 3, 2009.
8. By letter dated March 3, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDFARP. According to the return receipt "green card," Respondents received notice of the EDFARP on March 5, 2009, as evidenced by the signature on the card.
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 Thomas Jones and Mary Jones" (the "EDSARP") in the TCEQ Chief Clerk's office on June 16, 2009.
10. By letter dated June 16, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondents with notice of the EDSARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Respondents received notice of the EDSARP.

11. More than 20 days have elapsed since respondent Thomas Jones received notice of the EDPRP, provided by the Executive Director. Thomas Jones failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
12. More than 20 days have elapsed since Respondents received notice of the EDFARP and the EDSARP, provided by the Executive Director. Respondents failed to file an answer to the EDFARP and the 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, Respondents are 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., Respondents failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
3. As evidenced by Finding of Fact No. 3.b., Respondents failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, as applicable, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
4. As evidenced by Finding of Fact Nos. 5, 6, 7 and 8 the Executive Director timely served Thomas Jones with proper notice of the EDPRP and the Executive Director timely served Respondents with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact Nos. 9 and 10 the Executive Director timely served Respondents with proper notice of the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact Nos. 11 and 12, respondent Thomas Jones failed to file a timely answer to the EDPRP and Respondents failed to file a timely answer to the EDFARP and the 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 Respondents and assess the penalty recommended by the Executive Director.

7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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.
8. An administrative penalty in the amount of three thousand six hundred seventy-five dollars (\$3,675.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. 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. Respondents are assessed an administrative penalty in the amount of three thousand six hundred seventy-five dollars (\$3,675.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and 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: Thomas Jones and Mary Jones; Docket No. 2008-0281-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. Respondents shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Respondents shall:
    - i. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and

- ii. Submit an amended registration to reflect the current address and 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

- b. Within 45 days after the effective date of this Order, 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 Provisions Nos. 2.a.i. and 2.a.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:

Sam Barrett, Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are 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 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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 Respondents if the Executive Director determines that Respondents have 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 GARY K. SHIU**

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

“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 Thomas Jones” (the “EDPRP”) was filed with the Office of the Chief Clerk on April 28, 2008.

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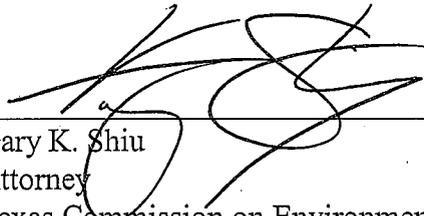
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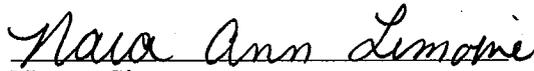
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Gary K. Shiu  
Attorney  
Texas Commission on Environmental Quality

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 04 day of August, A.D., 2009.

Notary Stamp

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

