

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1022-MLM-E **TCEQ ID:** RN100546324 **CASE NO.:** 37862

RESPONDENT NAME: Harold Ridlehuber dba J & R Auto

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" 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>SITE WHERE VIOLATION(S) OCCURRED: J & R Auto, 610 Abbott Avenue, Hillsboro, Hill County</p> <p>TYPE OF OPERATION: Metal parts coating and an automotive oil change facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on October 2, 2008, alleging improper disposal, storage and handling of chemicals and waste. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6933; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Harold ("Hal") Ridlehuber, Owner/President, J & R Auto, P.O. Box 1146, Hillsboro, Texas 76645 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: October 2, 2008</p> <p>Date of Investigations Relating to this Case: October 22, 2008 and June 5, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 15, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WASTE</p> <p>1) Failure to prevent the unauthorized discharge of industrial solid waste. Specifically, a fluid discharge underneath a front end loader and a discharge of process fluid from the e-nickel coating line were documented at the Facility. Also, an unidentified white crystallized powder substance was disposed of in the equipment yard [30 TEX. ADMIN. CODE § 335.4].</p> <p>2) Failure to register all underground storage tanks ("USTs") in existence on or after September 1, 1987, with the Commission. Specifically, the Respondent did not register two USTs [30 TEX. ADMIN. CODE § 334.7(a)(1) and TEX. WATER CODE § 26.346].</p> <p>3) Failure 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 [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p> <p>4) Failure to maintain all piping, pumps, manways, and other ancillary equipment in capped, plugged, locked and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the fill ports were</p>	<p>Total Assessed: \$4,725</p> <p>Total Deferred: \$945 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$105 (remaining \$3,675 due in 35 monthly payments of \$105 each)</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 Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Remove all discharged industrial solid waste at the Facility and properly dispose of the wastes and contaminated soils at an authorized facility; and</p> <p>ii. Permanently remove the UST system from service.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit a properly completed UST registration form; and</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through b.</p>

not locked [30 TEX. ADMIN. CODE § 334.54(b)(2)].		
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Additional ID No(s): 85019



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	22-Jun-2009	Screening	26-Jun-2009	EPA Due	
	PCW	1-Jul-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Harold Ridlehuber dba J & R Auto		
Reg. Ent. Ref. No.	RN100546324		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37862	No. of Violations	3
Docket No.	2009-1022-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Government/Non-Profit	No
Multi-Media	Petroleum Storage Tank	Enf. Coordinator	Clinton Sims
		EC's Team	Enforcement Team 7
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 Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts	\$2,852
Approx. Cost of Compliance	\$8,100

*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 26-Jun-2009

Docket No. 2009-1022-MLM-E

PCW

Respondent Harold Ridlehuber dba J & R Auto

Policy Revision 2 (September 2002)

Case ID No. 37862

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100546324

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 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%

Screening Date 26-Jun-2009	Docket No. 2009-1022-MLM-E	PCW	
Respondent Harold Ridlehuber dba J & R Auto	Policy Revision 2 (September 2002)		
Case ID No. 37862	PCW Revision October 30, 2008		
Reg. Ent. Reference No. RN100546324			
Media [Statute] Industrial and Hazardous Waste			
Enf. Coordinator Clinton Sims			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 335.4		
Violation Description	Failed to prevent the unauthorized discharge of Industrial solid waste. Specifically, a fluid discharge underneath a front end loader and a discharge of process fluid from the e-nicke coating line were documented at the Facility. Also, an unidentified white crystallized powder substance was disposed of in the equipment yard.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent		<input type="text" value="10%"/>	
>>Programmatic Matrix			
Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent		<input type="text" value="0%"/>	
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
Adjustment		<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>	
Violation Events			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="21"/>	
mark only one with an x	daily <input type="checkbox"/> weekly <input type="checkbox"/> monthly <input type="checkbox"/> quarterly <input checked="" type="checkbox"/> semiannual <input type="checkbox"/> annual <input type="checkbox"/> single event <input type="checkbox"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
One quarterly event is recommended from the June 5, 2009 investigation date to the June 26, 2009 screening date.			
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
		Before NOV NOV to EDPRP/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	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		<input type="text" value="\$1,000"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount <input type="text" value="\$38"/>		Violation Final Penalty Total <input type="text" value="\$1,050"/>	
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,050"/>	

Economic Benefit Worksheet

Respondent Harold Ridlehuber dba J & R Auto
Case ID No. 37862
Reg. Ent. Reference No. RN100546324
Media Industrial and Hazardous Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,000	5-Jun-2009	13-Mar-2010	0.77	\$38	\$38
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and dispose of the discharged waste and the contaminated soil. The Date Required is the investigation 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			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$38

Screening Date 26-Jun-2009	Docket No. 2009-1022-MLM-E	PCW		
Respondent Harold Ridlehuber dba J & R Auto	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37862	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN100546324				
Media [Statute] Industrial and Hazardous Waste				
Enf. Coordinator Clinton Sims				
Violation Number 2				
Rule Cite(s)	30 Tex. Admin. Code § 334.7(a)(1) and Tex. Water Code § 26.346			
Violation Description	Failed to register all underground storage tanks ("USTs") in existence on or after September 1, 1987, with the Commission. Specifically, the Respondent did not register two USTs.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Percent			0%	
>> Programmatic Matrix				
Falsification				
Major			Moderate	Minor
<input type="text"/>			<input checked="" type="text"/>	<input type="text"/>
Percent			10%	
Matrix Notes	100% of the rule requirement was not met.			
Adjustment			\$9,000	
			\$1,000	
Violation Events				
Number of Violation Events		1	Number of violation days	
		21		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text"/>		
One single event is recommended.			\$1,000	
Good Faith Efforts to Comply			\$0	
0.0% Reduction				
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="text"/>	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal			\$1,000	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$6	Violation Final Penalty Total	
			\$1,050	
This violation Final Assessed Penalty (adjusted for limits)			\$1,050	

Economic Benefit Worksheet

Respondent Harold Ridlehuber dba J & R Auto
Case ID No. 37862
Reg. Ent. Reference No. RN100546324
Media Industrial and Hazardous Waste
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-Dec-2008	18-Mar-2010	1.23	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to register the USTs with the Commission. The Date Required is 30 days after the notice of violation for failure to register 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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

Screening Date 26-Jun-2009	Docket No. 2009-1022-MLM-E	PCW	
Respondent Harold Ridlehuber dba J & R Auto	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37882	<small>PCW Revision October 30, 2009</small>		
Reg. Ent. Reference No. RN100546324			
Media [Statute] Industrial and Hazardous Waste			
Enf. Coordinator Clinton Sims			
Violation Number 3			
Rule Cite(s)	30 Tex. Admin. Code §§ 334.47(a)(2) and 334.54(b)(2)		
Violation Description	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. Also, failed to maintain all piping, pumps, manways, and other ancillary equipment in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the fill ports were not locked.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	x	<input type="checkbox"/>	<input type="checkbox"/>
Percent		25%	
>> Programmatic Matrix			
Falsification			
Major	Moderate	Minor	
<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	Number of violation days	21
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	
	weekly	<input type="checkbox"/>	
	monthly	x	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
Violation Base Penalty		\$2,500	
One monthly event is recommended from the June 5, 2009 investigation date to the June 26, 2009 screening date.			
Good Faith Efforts to Comply			
0.0% Reduction		\$0	
<small>Before NOV NOV to EDFRP/Settlement Offer</small>			
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		\$2,500	
Economic Benefit (EB) for this violation			
Statutory Limit Test			
Estimated EB Amount	\$2,808	Violation Final Penalty Total	\$2,625
This violation Final Assessed Penalty (adjusted for limits)		\$2,625	

Economic Benefit Worksheet

Respondent Harold Ridlehuber dba J & R Auto
Case ID No. 37862
Reg. Ent. Reference No. RN100546324
Media: Industrial and Hazardous Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				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)	\$5,000	22-Dec-1998	19-Mar-2010	11.23	\$2,808	n/a	\$2,808

Notes for DELAYED costs

Estimated minimum cost to permanently remove from service two USTs. 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				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$2,808

Compliance History Report

Customer/Respondent/Owner-Operator: CN601537699 RIDLEHUBER, HAROLD **Classification:** AVERAGE **Rating:** 10.00
Regulated Entity: RN100546324 J & R AUTO **Classification:** AVERAGE BY DEFAULT **Site Rating:** 3.01
ID Number(s): STORMWATER **PERMIT** TXRNET937
Location: 610 ABBOTT AVE, HILLSBORO, TX, 76645
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: July 02, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 02, 2004 to July 02, 2009

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

Name: Clinton Sims **Phone:** 239 - 6933

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- N/A
- | | | |
|---|------------|----------|
| 1 | 01/05/2009 | (721901) |
| 2 | 02/25/2009 | (726526) |
| 3 | 04/08/2009 | (740587) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

Date: 11/20/2008 (706123)

- | | | | |
|--------------|---|-----------------|----------|
| Self | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.7(a)(1) | | |
| Description: | Failure to register the underground storage tanks with the Commission. | | |
| Self | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter C 334.47(a)(2) | | |
| Description: | Failure to perform the permanent removal of underground storage tanks that have not met upgrade requirements. | | |
| Self | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter C 334.54(b)(2) | | |
| Description: | Failure to properly secure underground storage tanks against tampering, | | |

vandalism, or unauthorized access.

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
HAROLD RIDLEHUBER DBA J & R
AUTO
RN100546324

§
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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1022-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Harold Ridlehuber dba J & R Auto ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a metal parts coating and an automotive oil change facility at 610 Abbott Avenue in Hillsboro, Hill County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 20, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Seven Hundred Twenty-Five Dollars (\$4,725) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Five Dollars (\$105) of the administrative penalty and Nine Hundred Forty-Five Dollars (\$945) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Six Hundred Seventy-Five Dollars (\$3,675) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Five Dollars (\$105) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to prevent the unauthorized discharge of industrial solid waste, in violation of 30 TEX. ADMIN. CODE § 335.4, as documented during a record review conducted on June 5, 2009. Specifically, a fluid discharge underneath a front end loader and a discharge of process fluid from the e-nickel coating line were documented at the Facility. Also, an unidentified white crystallized powder substance was disposed of in the equipment yard.

2. Failed to register all USTs in existence on or after September 1, 1987, with the Commission, in violation of 30 TEX. ADMIN. CODE § 334.7(a)(1) and TEX. WATER CODE § 26.346, as documented during a record review conducted on June 5, 2009. Specifically, the Respondent did not register two USTs.
3. 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, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2), as documented during a record review conducted on June 5, 2009.
4. Failed to maintain all piping, pumps, manways, and other ancillary equipment in capped, plugged, locked and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2), as documented during a record review conducted on June 5, 2009. Specifically, the fill ports were not locked.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Harold Ridlehuber dba J & R Auto, Docket No. 2009-1022-MLM-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Remove all discharged industrial solid waste at the Facility and properly dispose of the wastes and contaminated soils at an authorized facility;
 - ii. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55;

- b. Within 45 days after the effective date of this Agreed Order, submit a properly completed UST registration form, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Registration Support Division, MC138
Texas Commission on Environmental Quality
P.O. Box 13807
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, 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.i. through 2.b. 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 fines 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:

Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolter
For the Executive Director

12/11/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Hal C Ridlehuber
Signature

10-20-2009
Date

HAL RIDLEHUBER
Name (Printed or typed)
Authorized Representative of
Harold Ridlehuber dba J & R Auto

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.