

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1014-PST-E **TCEQ ID:** RN101844231 **CASE NO.:** 37914
RESPONDENT NAME: C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery

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"/> 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 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

SITE WHERE VIOLATION(S) OCCURRED: Buffalo Creek Grocery, 1340 West Highway 332, Lake Jackson, Brazoria County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 26, 2010. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. Mike Pace, Enforcement Division, Enforcement Team 6, MC R-04, TCEQ, (817) 588-5933;
 Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Mr. Sabce Thomas, Owner, C.T.S. GROUP #1, L.L.C., 1340 West Highway 332, Lake Jackson, Texas 77566
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: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 14, 2009</p> <p>Date of NOE Relating to this Case: June 26, 2009</p> <p>Background Facts: This was a records review.</p> <p>WASTE</p> <p>1) Failure to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired July 31, 2008 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>2) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, 37 fuel deliveries were accepted without a valid delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>3) Failure to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,910</p> <p>Total Deferred: \$582 <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: \$608 (remaining \$1,720 due in 10 monthly payments of \$172 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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Submitted a properly completed UST registration and self-certification form and obtained a delivery certificate on July 6, 2009; and</p> <p>b. Began maintaining all Stage II records at the Station on July 8, 2009.</p>

Additional ID No(s): PST 42763



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	29-Jun-2009	Screening	8-Jul-2009	EPA Due	
	PCW	8-Jul-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery		
Reg. Ent. Ref. No.	RN101844231		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37914	No. of Violations	3
Docket No.	2009-1014-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mike Pace
		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	\$3,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.		
Compliance History	7.0% Enhancement	Subtotals 2, 3, & 7 \$210
Notes	Enhancement for one NOV with same or similar violations and one NOV with dissimilar violations.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		Subtotal 5 \$300
Economic Benefit	0.0% Enhancement*	Subtotal 6 \$0
Total EB Amounts	\$9	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$600	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,910
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment \$0
Reduces or enhances the Final Subtotal by the Indicated percentage.		
Notes		
	Final Penalty Amount	\$2,910
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$2,910
DEFERRAL	20.0% Reduction	Adjustment -\$582
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$2,328

Screening Date 8-Jul-2009

Docket No. 2009-1014-PST-E

PCW

Respondent C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery

Policy Revision 2 (September 2002)

Case ID No. 37914

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101844231

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

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	1	2%
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 judgments 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) 7%

>> **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 and one NOV with dissimilar violations.

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

Screening Date 8-Jul-2009 **Docket No.** 2009-1014-PST-E **PCW**
Respondent C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery *Policy Revision 2 (September 2002)*
Case ID No. 37914 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101844231
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Mike Pace
Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)
Violation Description Failed to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired July 31, 2008.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 287 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the May 14, 2009 record review.

Good Faith Efforts to Comply

10.0% Reduction \$100

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes: The Respondent came into compliance on July 6, 2009, after the NOE dated June 26, 2009.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$970

This violation Final Assessed Penalty (adjusted for limits) \$970

Economic Benefit Worksheet

Respondent C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery
Case ID No. 37914
Reg. Ent. Reference No. RN101844231
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
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	\$100	1-Jul-2008	6-Jul-2009	1.01	\$5	n/a	\$5
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days prior to the expiration date of the delivery certificate and the final date is the compliance date.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **TOTAL**
\$100 \$5

Screening Date 8-Jul-2009	Docket No. 2009-1014-PST-E	PCW
Respondent C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 37914	<small>PCW Revision October 30, 2009</small>	
Reg. Ent. Reference No. RN101844231		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Mike Pace		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)"/>	
Violation Description	<input type="text" value="Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, 37 fuel deliveries were accepted without a valid delivery certificate."/>	
Base Penalty		<input type="text" value="\$10,000"/>
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release Major Moderate Minor	
	Actual <input type="text"/>	<input type="text" value="0%"/>
	Potential <input type="text"/>	
>> Programmatic Matrix		
	Falsification Major Moderate Minor	
	<input type="text" value="x"/>	<input type="text" value="10%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>	
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="53"/>
<small>mark only one with an x</small>	daily <input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
	weekly <input type="text"/>	
	monthly <input type="text"/>	
	quarterly <input type="text"/>	
	semiannual <input type="text"/>	
	annual <input type="text"/>	
single event <input type="text" value="x"/>		
<input type="text" value="One single event is recommended based on documentation of the violation during the May 14, 2009 record review."/>		
Good Faith Efforts to Comply		
	10.0% Reduction	<input type="text" value="\$100"/>
	Before NOV NOV to EDRP/Settlement Offer	
Extraordinary <input type="text"/>	<input type="text"/>	
Ordinary <input type="text"/>	<input type="text" value="x"/>	
N/A <input type="text"/>	<small>(mark with x)</small>	
Notes	<input type="text" value="The Respondent came into compliance on July 6, 2009, after the NOE dated June 26, 2009."/>	
Violation Subtotal		<input type="text" value="\$900"/>
Economic Benefit (EB) for this violation		
Estimated EB Amount		<input type="text" value="\$0"/>
Statutory Limit Test		
Violation Final Penalty Total		<input type="text" value="\$970"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$970"/>

Economic Benefit Worksheet

Respondent C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery
Case ID No. 37914
Reg. Ent. Reference No. RN101844231
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
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1.

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 \$0

TOTAL \$0

Screening Date 8-Jul-2009	Docket No. 2009-1014-PST-E	PCW	
Respondent C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37914	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN101844231			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Mike Pace			
Violation Number 3			
Rule Cite(s)	30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel.		
Base Penalty		\$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			
Falsification			
Major Moderate Minor			
<input type="text"/> <input checked="" type="text" value="x"/> <input type="text"/> <input type="text"/>			Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.		
Adjustment			\$0,000
			<input type="text" value="\$1,000"/>
Violation Events			
Number of Violation Events <input type="text" value="1"/>		<input type="text" value="55"/> Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
	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" value="x"/>		
One single event is recommended based on documentation of the violation during the May 14, 2009 record review.			
Good Faith Efforts to Comply			<input type="text" value="\$100"/>
<input type="text" value="10.0%"/> Reduction			
Before NOV NOV to EDRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>	
N/A	<input type="text"/> (mark with x)		
Notes	The Respondent came into compliance on July 8, 2009, after the NOE dated June 26, 2009.		
Violation Subtotal			\$000
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="\$970"/>	
This violation Final Assessed Penalty (adjusted for limits)			\$970

Economic Benefit Worksheet

Respondent C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery
Case ID No. 37914
Reg. Ent. Reference No. RN101844231
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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	14-May-2009	8-Jul-2009	0.15	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. The date required is the investigation date and the final date is the compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$4

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603360678 C.T.S. GROUP #1, L.L.C.	Classification: AVERAGE	Rating: 4.33
Regulated Entity:	RN101844231 Buffalo Creek Grocery	Classification: AVERAGE	Site Rating: 4.33
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		42763
Location:	1340 WEST HIGHWAY 332, LAKE JACKSON, TX. 77566		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 29, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 29, 2004 to June 29, 2009		

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

Name: Mike Pace Phone: 817-588-5933

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? Yes
3. If Yes, who is the current owner/operator? C.T.S. GROUP #1, L.L.C.
4. If Yes, who was/were the prior owner(s)/operator(s) ? Gwennie's, LLC
5. When did the change(s) in owner or operator occur? 07/31/2007
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.)

1	03/23/2006	(451376)	
2	06/05/2008	(639037)	
3	04/26/2009	(745859)	
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	03/23/2006	(451376)	CN603360678
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)		
Description:	Initial testing not successfully completed.		
Date:	06/05/2008	(639037)	CN603360678
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(7)(A)		
Description:	30 TAC 115.246 (7)(A) - Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), the U.S. Environmental Protection Agency (EPA), or any local air pollution control program with jurisdiction		
Self Report?	NO		Classification: Moderate
Citation:			

Description: 30 TAC Chapter 115, SubChapter C 115.245(2)
30 TAC '115.245 (2) - Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, which must be performed at least once every 36 months.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)

Description: 30 TAC '115.242(1)(C) All Stage II vapor recovery systems must be onboard refueling vapor recovery (ORVR) compatible, as defined in '115.240 of this title in accordance with the schedules in '115.249 of this title.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: Correct cite is 30 TAC '115.242(3) - Failure to maintain all components of the Stage II Vapor Recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.

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

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
C.T.S. GROUP #1, L.L.C. DBA
BUFFALO CREEK GROCERY
RN101844231

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2009-1014-PST-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 C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and of 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 convenience store with retail sales of gasoline at 1340 West Highway 332 in Lake Jackson, Brazoria County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 July 1, 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 Two Thousand Nine Hundred Ten Dollars (\$2,910) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Eight Dollars (\$608) of the administrative penalty and Five Hundred Eighty-Two Dollars (\$582) 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 One Thousand Seven Hundred Twenty Dollars (\$1,720) of the administrative penalty shall be payable in 10 monthly payments of One Hundred Seventy-Two Dollars (\$172) 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 recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Submitted a properly completed UST registration and self-certification form and obtained a delivery certificate on July 6, 2009; and
 - b. Began maintaining all Stage II records at the Station on July 8, 2009.
10. 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.
11. 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.
12. 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 Station, the Respondent is alleged to have:

1. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during a record review conducted on May 14, 2009. Specifically, the delivery certificate expired July 31, 2008.
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during a record review conducted on May 14, 2009. Specifically, 37 fuel deliveries were accepted without a valid delivery certificate.
3. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on May 14, 2009.

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: C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery, Docket No. 2009-1014-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The 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 Station operations referenced in this Agreed Order.
3. 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.

4. 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.
5. 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.
6. 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.
7. 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.

C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zedler
For the Executive Director

3/30/2010
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.

Sabu Thomas
Signature

02-18-09
Date

Sabu Thomas
Name (Printed or typed)
Authorized Representative of
C.T.S. GROUP #1, L.L.C. dba Buffalo Creek Grocery

Owner
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.

