

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0398-PST-E TCEQ ID: RN101863165 CASE NO.: 35514**  
**RESPONDENT NAME: JOE BEN WOLF**

<b>ORDER TYPE:</b>		
<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	

<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

**SITE WHERE VIOLATION(S) OCCURRED:** Highway 149, Longview, Gregg County

**TYPE OF OPERATION:** property with two underground storage tanks

**SMALL BUSINESS:** N/A

**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 Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on May 10, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney:** Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400  
**TCEQ Enforcement Coordinator:** Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577  
**TCEQ Regional Contact:** Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176  
**Respondent:** Mr. Joe Ben Wolf, P.O. Box 1379, Kilgore, Texas 75663  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 15, 2008</p> <p><b>Date of NOE Relating to this Case:</b> March 20, 2008</p> <p><b>Background Facts:</b> The EDRP was filed on September 5, 2008. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on January 29, 2010.</p> <p><b>Current Compliance Status:</b> Respondent has not submitted documentation to certify compliance with the technical requirements.</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, 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)].</li> <li>Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</li> </ol>	<p><b>Initial Calculated Penalty:</b> \$6,300</p> <p><b>Total Assessed:</b> \$3,600</p> <p><b>Total Deferred:</b> \$2,700  <input type="checkbox"/> Expedited Order  <input checked="" type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$100/\$3,500</p> <p>Respondent paid \$100 of the undereferred administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 180 days, permanently remove the UST system from service.</li> <li>Within 195 days, submit an amended registration to reflect the current operational status of the UST system and the current ownership and contact information.</li> <li>Within 210 days, submit written certification to demonstrate compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	3-Mar-2008	<b>Screening</b>	7-Mar-2008	<b>EPA Due</b>	
	<b>PCW</b>	3-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Joe Ben Wolf
<b>Reg. Ent. Ref. No.</b>	RN101863165
<b>Facility/Site Region</b>	5-Tyler
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35514	<b>No. of Violations</b>	2
<b>Docket No.</b>	2008-0398-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Rajesh Acharya
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$6,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>5% Enhancement</b>	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$300</b>
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Notes: Enhancement for one Notice of Violation with same or similar violations.

<b>Culpability</b>	No	<b>0% Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	<b>0% Reduction</b>	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

<b>Total EB Amounts</b>	<b>\$4,925</b>	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
<b>Approx. Cost of Compliance</b>	<b>\$10,100</b>	<i>*Capped at the Total EB \$ Amount</i>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$6,300</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0%</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$6,300**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$6,300</b>
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<b>DEFERRAL</b>	<b>0%</b>	<b>Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$6,300</b>
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**Screening Date** 7-Mar-2008

**Docket No.** 2008-0398-PST-E

**PCW**

**Respondent** Joe Ben Wolf

*Policy Revision 2 (September 2002)*

**Case ID No.** 35514

*PCW Revision February 29, 2008*

**Reg. Ent. Reference No.** RN101863165

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Rajesh Acharya

### 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 Notice of Violation with same or similar violations.

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

Screening Date 7-Mar-2008

Docket No. 2008-0398-PST-E

PCW

Respondent Joe Ben Wolf

Policy Revision 2 (September 2002)

Case ID No. 35514

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101863165

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.47(a)(2)

Violation Description Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>>Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 52 Number of violation days

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two monthly events are recommended based on documentation of the violation during the January 15, 2008 record review to the March 7, 2008 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,921

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

## Economic Benefit Worksheet

**Respondent** Joe Ben Wolf  
**Case ID No.** 35514  
**Reg. Ent. Reference No.** RN101863165  
**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)	\$10,000	22-Dec-1998	22-Oct-2008	9.8	\$4,921	n/a	\$4,921

#### Notes for DELAYED costs

Estimated cost to permanently remove the UST system from service. The Date Required is the date when the Respondent was required to upgrade the UST system and the Final Date is the expected 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

\$10,000

**TOTAL**

\$4,921

Screening Date 7-Mar-2008

Docket No. 2008-0398-PST-E

PCW

Respondent Joe Ben Wolf

Policy Revision 2 (September 2002)

Case ID No. 35514

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101863165

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the correct contact information and the current operational status of the UST system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 52 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the January 15, 2008 record review.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

## Economic Benefit Worksheet

**Respondent** Joe Ben Wolf  
**Case ID No.** 35514  
**Reg. Ent. Reference No.** RN101863165  
**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
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	15-Jan-2008	6-Nov-2008	0.8	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the date of the record review and the Final Date is the expected 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**

\$4



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JOE BEN WOLF;  
RN101863165**

§  
§  
§  
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§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2008-0398-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Joe Ben Wolf (“Mr. Wolf”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Wolf, appear before the Commission and together stipulate that:

1. Mr. Wolf owns two underground storage tanks (“USTs”) on property located at Highway 149, Longview, Gregg County, Texas (the “Property”). Mr. Wolf’s two USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Wolf’s USTs contain a regulated petroleum substance as defined in the rules of the Commission.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Wolf agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Wolf is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Wolf of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of six thousand three hundred dollars (\$6,300.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). The Financial Assurance Section of the Commission’s Financial Administration Division reviewed the financial documentation submitted by Mr. Wolf and

determined that Mr. Wolf is unable to pay part of the administrative penalty. Therefore, two thousand seven hundred dollars (\$2,700.00) of the penalty is deferred contingent upon Mr. Wolf's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Wolf fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Wolf to pay all or part of the deferred penalty.

Mr. Wolf paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in 35 monthly payments of one hundred dollars (\$100.00) each. The first 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 Mr. Wolf fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his 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 acceleration of any remaining balance constitutes the failure by Mr. Wolf to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

6. 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.
7. The Executive Director of the TCEQ and Mr. Wolf agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. 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 Mr. Wolf has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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**

1. During an investigation conducted on January 15, 2008, a TCEQ Tyler Regional Office investigator documented that Mr. Wolf violated:

- a. 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing 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; and
  - b. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not update to reflect the correct contact information and current operational status of the UST system.
2. Mr. Wolf received notice of the violations on or about March 25, 2008.

### **III. DENIALS**

Mr. Wolf generally denies each allegation in Section II (“Allegations”).

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Mr. Wolf pay an administrative penalty as set forth in Section I, Paragraph 5, above, for violations of TCEQ rules and state statute. The payment of this administrative penalty and Mr. Wolf’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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Joe Ben Wolf, Docket No. 2008-0398-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. Mr. Wolf shall undertake the following technical requirements:
- a. Within 180 days after the effective date of this Agreed Order, Mr. Wolf shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
  - b. Within 195 days after the effective date of this Agreed Order, Mr. Wolf shall submit an amended registration to reflect the current operational status of the UST system

and the current ownership and contact information, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting and Remediation Support Division, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-30870

- c. Within 210 days after the effective date of this Agreed Order, Mr. Wolf shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 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 fine and imprisonment for knowing violations.”

Mr. Wolf shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Michael Brashear, Waste Section Manager  
Texas Commission on Environmental Quality  
Tyler Regional Office  
2916 Teague Dr.  
Tyler, Texas 78701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Wolf. Mr. Wolf is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Property referenced in this Agreed Order.

4. If Mr. Wolf 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, Mr. Wolf's failure to comply is not a violation of this Agreed Order. Mr. Wolf shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Wolf shall notify the Executive Director within seven days after Mr. Wolf 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 Mr. Wolf shall be made in writing to the Executive Director. Extensions are not effective until Mr. Wolf 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 Mr. Wolf 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Mr. Wolf, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Wolf, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Joe Ben Wolf  
TCEQ Docket No. 2008-0398-PST-E  
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### SIGNATURE PAGE

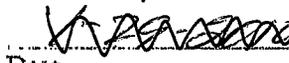
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/21/2010 JBR



Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Wolf's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Wolf;
- 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 against Mr. Wolf;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Wolf; and
- TCEQ seeking other relief as authorized by law.

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

Signature



Name (Printed or typed)

Date

1-29-2010

Title

1-29-2010