

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-1545-PST-E

RN102965811

CASE NO. 40372

RESPONDENT NAME: BIG SCORE INVESTORS, LLC D/B/A SEAGOVILLE CHEVRON

ORDER TYPE:		
<input type="checkbox"/> AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 1001 North Highway 175, Seagoville, Dallas County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. 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 March 21, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Steve Villatoro, Waste Enforcement Section, MC 169, (512) 239-4930

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5903

Respondent: Fazel Rahmani, BIG SCORE INVESTORS, LLC, 4805 S. Colony Blvd., The Colony, TX 75056

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

**RESPONDENT NAME: BIG SCORE INVESTORS, LLC
D/B/A SEGOVILLE CHEVRON
DOCKET NO. 2010-1545-PST-E**

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaint(s): N/A</p> <p>Date of Investigation: July 20, 2010</p> <p>Date of NOE: August 20, 2010</p> <p>Background Facts: The EDRP was filed on December 28, 2010, and mailed to Respondent via first class mail and certified mail, return receipt requested. According to the return receipt "green card," Respondent received the EDRP on December 30, 2010. Respondent failed to file an answer and failed to request a hearing.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation demonstrating compliance with the technical requirements. Respondent's delivery certificate expires on April 30, 2012, but will be revoked upon entry of this Order.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to 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 [30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)]. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)]. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii)]. 	<p>Total Assessed: \$4,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$4,000</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed administrative penalty but will be required to do so within 30 days under the terms of this Order.</p> <p>Compliance History Classifications: <i>Person/CN</i> – Average <i>Site/RN</i> – Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions: Respondent shall undertake the following technical requirements to shut down operations of all USTs at the Facility:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Cease dispensing fuel from the USTs; Cease receiving deliveries of regulated substances into the USTs; Padlock the dispensers; Empty the USTs of all regulated substances; and Temporarily remove the USTs from service. Respondent's USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection violation has been corrected. If Respondent elects to permanently remove from service any portion of the UST system, Respondent shall immediately permanently remove the UST system from service, and within 15 days submit a written report documenting compliance. Respondent's UST fuel delivery certificate is revoked immediately. Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order. Within 10 days, Respondent shall send its UST fuel delivery certificate to the TCEQ. Within 15 days, Respondent shall submit documentation certifying compliance with Ordering Provision Nos. 1 and 5. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall: <ol style="list-style-type: none"> Implement an effective release detection method for all USTs; and Obtain a new fuel delivery certificate from the TCEQ. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where it is clearly visible at all times. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification demonstrating compliance with Ordering Provision Nos. 7 and 8.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	23-Aug-2010	Screening	7-Sep-2010	EPA Due	
	PCW	8-Oct-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	BIG SCORE INVESTORS, LLC dba Seagoville Chevron
Reg. Ent. Ref. No.	RN102965811
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40372	No. of Violations	3
Docket No.	2010-1545-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$4,000
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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.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$92
Approx. Cost of Compliance	\$2,600

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$4,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$4,000
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Screening Date 7-Sep-2010

Docket No. 2010-1545-PST-E

PCW

Respondent BIG SCORE INVESTORS, LLC dba Seagoville Chev

Policy Revision 2 (September 2002)

Case ID No. 40372

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102965811

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steve Villatoro

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	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) 0%

>> 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

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 7-Sep-2010

Docket No. 2010-1545-PST-E

PCW

Respondent BIG SCORE INVESTORS, LLC dba Seagoville Chevron

Policy Revision 2 (September 2002)

Case ID No. 40372

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102965811

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steve Villatoro

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)

Violation Description Failed to 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 on April 30, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
Notes	100% of the rule requirement was not met.				

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 116 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.

Good Faith Efforts to Comply

	0.0% Reduction	
	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 for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$5

Statutory Limit Test

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent BIG SCORE INVESTORS, LLC dba Seagoville Chevron
Case ID No. 40372
Req. Ent. Reference No. RN102965811
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				0.00	\$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	31-Mar-2010	31-Mar-2011	1.00	\$5	n/a	\$5
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate. The date required is the renewal due date for the current coverage period of the delivery certificate. Final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$5

Screening Date 7-Sep-2010

Docket No. 2010-1545-PST-E

PCW

Respondent BIG SCORE INVESTORS, LLC dba Seagoville Chevron

Policy Revision 2 (September 2002)

Case ID No. 40372

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102965811

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steve Villatoro

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description 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, one fuel delivery was accepted without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5%
Potential			x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 116 Number of violation days

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

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	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 for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$500

This violation Final Assessed Penalty (adjusted for limits) \$500

Economic Benefit Worksheet

Respondent BIG SCORE INVESTORS, LLC dba Seagoville Chevron
Case ID No. 40372
Req. Ent. Reference No. RN102965811
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				0.00	\$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

See economic benefit for 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 7-Sep-2010

Docket No. 2010-1545-PST-E

PCW

Respondent BIG SCORE INVESTORS, LLC dba Seagoville Chevron

Policy Revision 2 (September 2002)

Case ID No. 40372

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102965811

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steve Villatoro

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauging ("ATG") system was non-operational.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 49 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date (July 20, 2010) to the screening date (September 7, 2010).

Good Faith Efforts to Comply

0.0% Reduction \$0

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 for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$87

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent BIG SCORE INVESTORS, LLC dba Seagoville Chevron
Case ID No. 40372
Req. Ent. Reference No. RN102965811
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				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)	\$2,500	20-Jul-2010	31-Mar-2011	0.70	\$87	n/a	\$87

Notes for DELAYED costs

Estimated cost to repair the ATG probe for the diesel tank compartment. Date required is the investigation date. 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

\$2,500

TOTAL

\$87

Compliance History Report

Customer/Respondent/Owner-Operator: CN601285075 BIG SCORE INVESTORS, LLC Classification: AVERAGE Rating: 2.13
Regulated Entity: RN102965811 SEAGOVILLE CHEVRON Classification: AVERAGE Site Rating: 1.33
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 33244
REGISTRATION
Location: 1001 North Highway 175, Seagoville, Dallas County, Texas
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: August 31, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 31, 2005 to August 31, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Steve Villatoro Phone: (512) 239-4930

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: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 12/07/2005 (436909)
2 08/20/2010 (842453)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BIG SCORE INVESTORS, LLC
D/B/A SEAGOVILLE CHEVRON;
RN102965811**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2010-1545-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shutdown and remove from service the underground storage tanks ("USTs") located at 1001 North Highway 175, Seagoville, Dallas County, Texas. The respondent made the subject of this Order is BIG SCORE INVESTORS, LLC d/b/a Seagoville Chevron ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), two underground storage tanks ("USTs") and a convenience store with retail sales of gasoline located at 1001 North Highway 175 in Seagoville, Dallas County, Texas (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on July 20, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to 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. Specifically, the delivery certificate expired on April 30, 2010;
 - b. 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, one fuel delivery was accepted without a delivery certificate; and

- c. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauging ("ATG") system was non-operational.
3. By letter dated August 20, 2010, the TCEQ Dallas/Fort Worth Regional Office provided Respondent with notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations are not corrected.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of BIG SCORE INVESTORS, LLC d/b/a Seagoville Chevron" (the "EDPRP") in the TCEQ Chief Clerk's office on December 28, 2010.
5. By letter dated December 28, 2010, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on December 30, 2010, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.
7. By letter dated January 31, 2011, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the release detection violation within 30 days after Respondent's receipt of the notice.
8. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection violation alleged in Finding of Fact No. 2.c. has been corrected.
9. The USTs at the Facility do not have release detection as required by 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1) and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to 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)(5)(B)(ii).

3. As evidenced by Finding of Fact No. 2.b., Respondent 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 TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii).
5. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of four thousand dollars (\$4,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. As evidenced by Findings of Fact Nos. 3, 7 and 8, Respondent failed to correct documented violations of Commission release detection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
10. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill protection for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
12. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Respondent's UST fuel delivery certificate if the Commission finds that good cause exists.
13. Good cause for revocation of Respondent's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 through 6 and Conclusions of Law Nos. 2 through 6.

14. As evidenced by Findings of Fact Nos. 8 and 9, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. Respondent's USTs shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provision Nos. 1.a. through 1.e., until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection violation noted in Finding of Fact No. 2.c. and Conclusion of Law No. 4 has been corrected.
3. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent shall, immediately upon the effective date of the Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
4. Respondent's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order.
5. Within 10 days after the effective date of this Order, Respondent shall send its UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 5. The written report shall include detailed supporting documentation such as photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and, that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification, written report, and supporting documentation shall be submitted to:

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

and:

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

7. Respondent is assessed an administrative penalty in the amount of four thousand dollars (\$4,000.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
8. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: BIG SCORE INVESTORS, LLC d/b/a Seagoville Chevron; Docket No. 2010-1545-PST-E" to:

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

9. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Implement an effective release detection method for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusion of Law No. 4); and
 - b. Obtain a new fuel delivery certificate from the TCEQ (Conclusions of Law Nos. 2 and 3).
10. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
11. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 9 and 10. The certification shall be notarized by a State of Texas Notary Public and shall 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."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

12. All relief not expressly granted in this Order is denied.

13. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
14. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
15. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
16. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
17. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
18. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date this Order was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PHILLIP M. GOODWIN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Phillip M. Goodwin. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

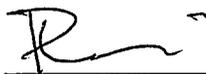
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of BIG SCORE INVESTORS, LLC d/b/a Seagoville Chevron," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 28, 2010.

The EDPRP was mailed to Respondent's last known address on December 28, 2010 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on December 30, 2010, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."

By letter dated January 31, 2011, sent via first class mail and certified mail, return receipt requested article nos. **7010 3090 0000 7807 4712**, and **7010 3090 0000 7807 4606**, I provided Respondent with notice of the TCEQ's intent to order the USTs at the Facility shut down and removed from service if the violation pertaining to release detection was not corrected within 30 days of Respondent's receipt of the letter.

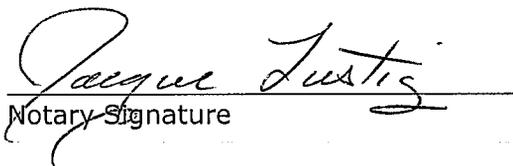
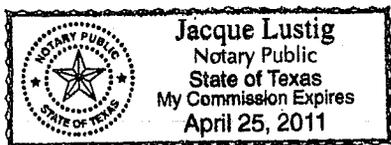
As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the violations noted during the July 20, 2010 investigation."



Phillip M. Goodwin, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 31st day of January, A.D. 2011.



Notary Signature