

Executive Summary – Enforcement Matter – Case No. 39315
NPJ ENTERPRISES, INC. d/b/a Z-P MART
RN101662955
Docket No. 2010-0400-PST-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
428 North Coulter Drive, Bryan, Brazos County

Type of Operation:
property that previously contained underground storage tanks

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: March 4, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed:	\$2,625
Amount Deferred for Expedited Settlement:	N/A
Amount Deferred for Financial Inability to Pay:	N/A
Total Paid to General Revenue:	\$0
Total Due to General Revenue:	\$2,625
SEP Conditional Offset:	N/A

Compliance History Classifications:
Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date: N/A
Complaint Information: N/A
Date of Investigation: February 16, 2010
Date of NOV: August 14, 2009
Date of NOE: March 1, 2010

Violation Information

Failed to perform the permanent removal from service, no later than 60 days after the prescribed upgrade implementation date, of a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action Completed:

The USTs were removed from the ground on or about June 16, 2010. A Release Determination Report was submitted on October 18, 2010, indicating a release of regulated petroleum substances.

Technical Requirements:

1. Within 45 days:
 - a. Perform a Site Assessment;
 - b. Submit the Site Assessment information to the TCEQ in a manner that demonstrates its applicability and technical adequacy and in a format and in accordance with a schedule required by the agency; and
 - c. If the Site Assessment indicates the presence of Non-Aqueous Phase Liquids (NAPLs), submit a product recovery report.
2. Within 180 days, submit a report summarizing the findings of the Site Assessment, which shall include a proposal for corrective action. Upon approval of the proposal, implement the proposal in accordance with the approved implementation schedule, perform any necessary additional investigations, and perform additional remedial or other actions as directed by the Executive Director.
3. Within 190 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition Filed: September 14, 2010
Date Green Card Signed: September 15, 2010
Date Answer Filed: N/A
SOAH Referral Date: N/A
Hearing Date: N/A

Executive Summary – Enforcement Matter – Case No. 39315
NPJ ENTERPRISES, INC. d/b/a Z-P MART
RN101662955
Docket No. 2010-0400-PST-E

Contact Information

TCEQ Attorneys: Marshall Coover, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Todd Huddleson, Waste Enforcement Section, (512) 239- 2541

TCEQ Regional Contact: Frank Burleson, Waco Regional Office, MC R-9, (254) 761- 0335

Respondent: Pyarali Hirani, Director and President, NPJ ENTERPRISES, INC., 103 South Coulter Drive, Bryan, Texas 77803

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Mar-2010			
	PCW	30-Aug-2010	Screening	5-Mar-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	NPJ ENTERPRISES, INC. d/b/a Z-P MART				
Reg. Ent. Ref. No.	RN101662955				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39315	No. of Violations	1		
Docket No.	2010-0400-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Todd Huddleson		
		EC's Team	Enforcement Team 4		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$2,500
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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	5.0% Enhancement	Subtotals 2, 3, & 7	\$125
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Notes	The penalty was enhanced by one NOV for same or similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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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	\$2,572	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,625
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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	
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Final Penalty Amount	\$2,625
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,625
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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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.
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PAYABLE PENALTY	\$2,625
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Screening Date 5-Mar-2010

Docket No. 2010-0400-PST-E

PCW

Respondent NPJ ENTERPRISES, INC. d/b/a Z-P MART

Policy Revision 2 (September 2002)

Case ID No. 39315

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101662955

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Todd Huddleson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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

The penalty was enhanced by one NOV for same or similar violations.

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

Screening Date 5-Mar-2010 **Docket No.** 2010-0400-PST-E **PCW**
Respondent NPJ ENTERPRISES, INC. d/b/a Z-P MART *Policy Revision 2 (September 2002)*
Case ID No. 39315 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101662955
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Todd Huddleson

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="mark with x"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent NPJ ENTERPRISES, INC. d/b/a Z-P MART
Case ID No. 39315
Reg. Ent. Reference No. RN101662955
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				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	15-Aug-2000	26-Nov-2010	10.29	\$2,572	n/a	\$2,572

Notes for DELAYED costs

Estimated minimum cost to permanently remove three USTs from service. The Date Required is the date of ownership change and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$2,572

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600897136 NPJ ENTERPRISES, INC.	Classification: AVERAGE	Rating: 1.00
Regulated Entity:	RN101662955 Z-P Mart	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		65540
Location:	428 N COULTER DR, BRYAN, TX, 77803		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	March 29, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 03, 2005 to March 03, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Todd Huddleson	Phone:	239 - 2541

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 judgements, and consent decrees of the state of Texas and the federal government.

N/A
- B. Any criminal convictions of the state of Texas and the federal government.

N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	08/13/2009	(763612)
2	10/12/2009	(777416)
3	02/26/2010	(792217)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/14/2009	(763612)	CN600897136
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 334, SubChapter C 334.47(a)(2)		
Description:	Failure to perform the permanent removal from service of an underground storage tank (UST) that has not met upgrade requirements.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 334, SubChapter C 334.54(b)(2)		
Description:	Failure to properly secure all underground storage tanks (USTs) to prevent access, tampering or vandalism by unauthorized persons.		
- 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
NPJ ENTERPRISES, INC. d/b/a
Z-P MART;
RN101662955**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-0400-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 Respondent made the subject of this Order is NPJ ENTERPRISES, INC. d/b/a Z-P MART ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns property which had three underground storage tanks ("USTs") and a convenience store with retail sales of gasoline located at 428 North Coulter Drive in Bryan, Brazos County, Texas (the "Facility"). The USTs at the Facility were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During a record review conducted on February 16, 2010, a TCEQ Waco Regional Office investigator documented that Respondent failed to perform the permanent removal 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 failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons.
3. Respondent received notice of the violation on or about March 6, 2010.
4. The Executive Director recognizes that on or about June 16, 2010, Respondent removed the USTs from the ground. The Executive Director further recognizes that on or about October 18, 2010, Respondent submitted a Release Determination Report that documented a release of regulated petroleum substances.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of NPJ ENTERPRISES, INC. d/b/a Z-P MART" (the "EDPRP") in the TCEQ Chief Clerk's office on September 14, 2010.

6. By letter dated September 14, 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 September 15, 2010, as evidenced by the signature on the card.
7. 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.

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, Respondent failed to perform the permanent removal 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 failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN CODE §§ 334.47(a)(2) and 334.54(b)(2).
3. As evidenced by Findings of Fact Nos. 5 and 6, 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).
4. As evidenced by Finding of Fact No. 7, 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.
5. 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.
6. An administrative penalty in the amount of two thousand six hundred twenty-five dollars (\$2,625.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of two thousand six hundred twenty-five dollars (\$2,625.00) 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.
2. 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: NPJ ENTERPRISES, INC. d/b/a Z-P MART; Docket No. 2010-0400-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

3. Respondent shall undertake the following technical requirements:
 - a. Within 45 days after the effective date of this Order, Respondent shall:
 - i. Perform a Site Assessment at the Facility in accordance with 30 TEX. ADMIN. CODE § 334.78;
 - ii. Submit the Site Assessment information to the TCEQ in a manner that demonstrates its applicability and technical adequacy and in a format and in accordance with a schedule required by the TCEQ pursuant to 30 TEX. ADMIN. CODE § 334.78(c); and
 - iii. If the Site Assessment indicates the presence of Non-Aqueous Phase Liquids (NAPLs), submit a product recovery report to the TCEQ in accordance with 30 TEX. ADMIN. CODE § 334.79(4).
 - b. Within 180 days after the effective date of this Order, Respondent shall submit to the Executive Director a report which summarizes the findings of the Site Assessment (the "Site Assessment Report"). The Site Assessment Report shall include a proposal for corrective in accordance with 30 TEX. ADMIN. CODE ch. 334, subchs. D and G (relating to Release Reporting and Corrective Action, and Target Concentration Criteria, respectively) or other applicable guidance approved by the Executive Director. Upon approval of the proposal by the Executive Director, the Respondent shall implement the proposal in accordance with the approved implementation schedule.

If, after receipt of the Site Assessment Report, the Executive Director determines that additional investigation is necessary, Respondent shall implement such investigation and report the results to the Executive Director within the time-frame specified in the request.

If the Executive Director determines that additional information or additional actions are required to ensure that adequate remediation of all contaminated areas has been completed, Respondent shall submit the additional information to the Executive Director, and perform the additional actions within the time-frame specified in the request.

- c. Within 190 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. 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:

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

4. All relief not expressly granted in this Order is denied.
5. 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.

6. 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.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARSHALL COOVER

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

"My name is Marshall Coover. 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 NPJ ENTERPRISES, INC. d/b/a Z-P MART," (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 14, 2010.

The EDPRP was mailed to Respondent's last known address on September 14, 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 September 15, 2010, as evidenced by the signature on the card.

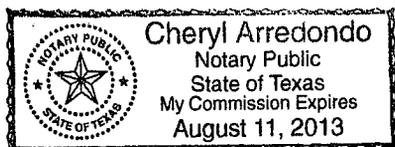
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



Marshall Coover, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Marshall Coover, 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 2nd day of February, A.D. 2011.



Notary Signature