

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 39171  
G. W. HASTON FAMILY TRUST  
RN101789105  
Docket No. 2010-0262-PST-E

**Order Type:**

Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

1295 Crockett Street, Beaumont, Jefferson County

**Type of Operation:**

underground storage tank ("UST") system

**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:** August 17, 2012

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$8,925

**Amount Deferred for Financial Inability to Pay:** \$8,925

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN –Not Yet Rated  
Site/RN – Average

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**G. W. HASTON FAMILY TRUST**

RN101789105

Docket No. 2010-0262-PST-E

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** November 24, 2009  
**Date(s) of NOV(s):** April 8, 2009  
**Date(s) of NOE(s):** January 5, 2010

**Violation Information**

1. 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)].
2. 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; failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering or vandalism by unauthorized persons; and failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity [30 TEX. ADMIN. CODE §§ 334.47(a)(2), 334.54(b)(2), and 334.54(d)(2)].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 180 days, permanently remove the UST system from service, which includes but is not limited to the following actions:
  - a. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities; and
  - b. Employing a Licensed Underground Storage Tank Contractor to perform all removal activities, including but not limited to:
    1. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;
    2. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
    3. Handling, transporting, and properly disposing of the empty USTs, of the regulated substances removed from the UST system, and of any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
    4. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and compliance with all applicable corrective action requirements.
2. Within 195 days, submit written certification to demonstrate compliance.

**G. W. HASTON FAMILY TRUST**

**RN101789105**

**Docket No. 2010-0262-PST-E**

**Litigation Information**

**Date Petition(s) Filed:** April 27, 2010  
**Date Answer(s) Filed:** May 10, 2011  
**SOAH Referral Date:** June 16, 2011  
**Hearing Date(s):**  
    Preliminary hearing: July 21, 2011 (waived)  
    Evidentiary hearing: July 19, 2012 (scheduled)  
**Settlement Date:** July 12, 2012

**Contact Information**

**TCEQ Attorneys:** Jeffrey Huhn, Litigation Division, (512) 239-3400  
    Lena Roberts, Litigation Division, (512) 239-3400  
    Blas Coy, Public Interest Counsel, (512) 239-6363  
**TCEQ SEP Coordinator:** N/A  
**TCEQ Enforcement Coordinator:** Brianna Carlson, Enforcement Division, (956) 430-6021  
**TCEQ Regional Contact:** Sarah Kirksey, Beaumont Regional Office, (409) 898-3838  
**Respondent:** Garrett Haston, G. W. Haston Trust, 1280 Bowie Street, Beaumont, Texas 77701  
**Respondent's Attorney:** N/A

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	11-Jan-2010	<b>Screening</b>	18-Feb-2010	<b>EPA Due</b>	
	<b>PCW</b>	18-Feb-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	G W Haston Family Trust
<b>Reg. Ent. Ref. No.</b>	RN101789105
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	39171	<b>No. of Violations</b>	2	
<b>Docket No.</b>	2010-0262-PST-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Brianna Carlson	
		<b>EC's Team</b>	Enforcement Team 7	
<b>Admin. Penalty \$ Limit</b>	<b>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>\$8,500</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>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$425</b>
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<b>Notes</b>	Enhancement for one NOV with same or similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$0</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$2,103	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	#NAME?	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$8,925</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	<b>\$8,925</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$8,925</b>
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<b>DEFERRAL</b>	0.0%	Reduction	<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.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$8,925</b>
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Screening Date 18-Feb-2010

Docket No. 2010-0262-PST-E

PCW

Respondent G W Haston Family Trust

Policy Revision 2 (September 2002)

Case ID No. 39171

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101789105

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

### 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)

N/A

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date 18-Feb-2010

Docket No. 2010-0262-PST-E

PCW

Respondent G W Haston Family Trust

Policy Revision 2 (September 2002)

Case ID No. 39171

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101789105

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

Violation Number 1

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 the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the correct ownership information and current operational status of the underground storage tank ("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

86 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the November 24, 2009 record review.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement

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

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$1,050

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

## Economic Benefit Worksheet

**Respondent** G W Haston Family Trust  
**Case ID No.** 39171  
**Reg. Ent. Reference No.** RN101789105  
**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)	\$100	15-Jul-2006	15-Nov-2010	4.34	\$22	n/a	\$22

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The date required is 30 days after the change of ownership and the final date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$22

**Screening Date** 18-Feb-2010 **Docket No.** 2010-0262-PST-E **PCW**  
**Respondent** G W Haston Family Trust *Policy Revision 2 (September 2002)*  
**Case ID No.** 39171 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101789105  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Brianna Carlson

**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**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
<input type="text" value="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."/>					
					<b>Adjustment</b> <input type="text" value="\$7,500"/>

**Violation Events**

Number of Violation Events   Number of violation days  
 mark only one with an x  

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 Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
<b>Violation Subtotal</b> <input type="text" value="\$7,500"/>		

**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** G W Haston Family Trust  
**Case ID No.** 39171  
**Reg. Ent. Reference No.** RN101789105  
**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)	\$9,413	15-Jun-2006	15-Nov-2010	4.42	\$2,081	n/a	\$2,081

Notes for DELAYED costs

Estimated cost to permanently remove from service four USTs with a combined capacity of 12,550 gallons at \$0.75 per gallon. 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

\$9,413

**TOTAL**

\$2,081

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603597642 G W Haston Family Trust Classification: Rating:  
Regulated Entity: RN101789105 CROCKETT ST SHELL Classification: AVERAGE Site Rating: 6.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 15198  
Location: 1295 CROCKETT ST, BEAUMONT, TX, 77701  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: February 22, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 22, 2005 to February 22, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Brianna Carlson Phone: 956/430-6021

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OPR G W Haston Family Trust  
OWN Rita Land Company, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ? OWN Jerry Porter Oil Company
5. When did the change(s) in owner or operator occur? 06/15/2006 OWN Jerry Porter Oil Company
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 04/07/2009 (738346)  
2 01/05/2010 (783728)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
**Date: 04/08/2009 (738346)**  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)  
Description: Failure to amend, update, or change the PST Registration for any change within 30 days of occurrence.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)  
Description: Failure to meet technical upgrade requirements or permanently remove tanks from service.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)(2)  
Description: Failure to secure tanks against tampering, vandalism, and unauthorized access.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter C 334.54(d)(2)  
Description: Failure to empty tanks to less than 2.5 centimeters (1 Inch) of regulated product.
- 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  
G. W. HASTON FAMILY TRUST;  
RN101789105**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2010-0262-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding G. W. Haston Family Trust ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns as defined in 30 TEX. ADMIN. CODE § 334.2(73), an underground storage tank ("UST") system located at 1295 Crockett Street in Beaumont, Jefferson 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. 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 Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of eight thousand nine hundred twenty-five dollars (\$8,925.00) is assessed by the Commission in settlement of the violations alleged in Section II. Eight thousand nine hundred twenty-five dollars (\$8,925.00) of the administrative penalty is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order, and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including any payment schedule, the Executive Director may require Respondent to pay all or part of the deferred administrative penalty.
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 and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
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 Respondent has not complied with one or more of the terms or conditions contained 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 a record review conducted on November 24, 2009, a TCEQ Beaumont Regional Office investigator documented that Respondent:
  - a. 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, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3); and
  - b. 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; failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering or vandalism by unauthorized persons; and failed to ensure that any residue from stored regulated substances which remained in the temporarily out-of-service UST system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity, in violation of 30 TEX. ADMIN. CODE §§ 334.47(a)(2), 334.54(b)(2), and 334.54(d)(2).
2. Respondent received notice of the violations on or about January 10, 2010.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here.

2. Respondent shall undertake the following technical requirements:
- a. Within 180 days after the effective date of this Agreed Order, Respondent shall permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, which includes but is not limited to the following actions:
    - i. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities; and
    - ii. Employing a Licensed Underground Storage Tank Contractor to perform all removal activities, including but not limited to:
      - a. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;
      - b. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
      - c. Handling, transporting, and properly disposing of the empty USTs, of the regulated substances removed from the UST system, and of any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
      - d. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and compliance with all applicable corrective action requirements.
  - b. Within 195 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including 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.”

Respondent shall submit the written certification and supporting 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:

Sarah Kirksey, Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Fwy.  
Beaumont, TX 77703-1830

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed 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.
6. 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 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual

signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 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 this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

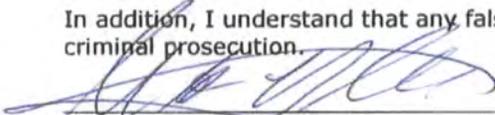
September 17, 2012  
Date

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 G. W. Haston Trust, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
\_\_\_\_\_  
Signature -Garrett Haston,  
G. W. Haston Trust

7-10-12  
Date