

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 42426
Sharp Investment, Inc. d/b/a Little Buddy 2
RN101822310
Docket No. 2011-1558-PST-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

2001 S. Wayside Dr., Houston, Harris County

Type of Operation:

convenience store with retail sales of gasoline

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: April 13, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$75,100

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$75,100

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 28, 2010; August 5, 2011

Date(s) of NOV(s): N/A

Date(s) of NOE(s): August 5, 2011

Sharp Investment, Inc. d/b/a Little Buddy 2

RN101822310

Docket No. 2011-1558-PST-E

Violation Information

1. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to report to the TCEQ a suspected release within 24 hours after discovery [30 TEX. ADMIN. CODE § 334.72].
3. Failed to investigate a suspected release of regulated substances within 30 days of discovery [30 TEX. ADMIN. CODE § 334.74].

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

Respondent began monitoring the USTs for releases as of April 3, 2012.

Technical Requirements:

The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements.

1. Immediately:
 - a. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ; and
 - b. Conduct an investigation of the suspected release and implement appropriate corrective measures.
2. Within 10 days, send the Facility's UST fuel delivery certificate to TCEQ.
3. Within 15 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.a. and 2.
4. Within 30 days, establish and implement a process for reporting a suspected release.
5. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 1.b. and 4.
6. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.

Litigation Information

Date Petition(s) Filed: January 20, 2012

Date Green Card(s) Signed: Unclaimed

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Theresa Stephens, Enforcement Division, (512) 239-2540

TCEQ Regional Contact: Nicole Bealle, Houston Regional Office, (713) 767-3623

Respondent: Moez Dhuka, President, Sharp Investment, Inc., 4002 Brookdale Ct., Sugarland, Texas 77479

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Aug-2011	Screening	9-Aug-2011	EPA Due	
	PCW	12-Dec-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	SHARP INVESTMENT, INC. dba Little Buddy 2					
Reg. Ent. Ref. No.	RN101822310					
Facility/Site Region	12-Houston	Major/Minor Source	Major			

CASE INFORMATION						
Enf./Case ID No.	42426	No. of Violations	3			
Docket No.	2011-1558-PST-E	Order Type	1660			
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Theresa Hagood			
		EC's Team	Enforcement Team 6			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000			

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$62,500
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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	20.0% Enhancement	Subtotals 2, 3, & 7	\$12,500
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Notes	Enhancement for one order containing a denial of liability.
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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	\$223	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,850	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$75,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.1%	Adjustment	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.
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Final Penalty Amount	\$75,100
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$75,100
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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.
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PAYABLE PENALTY	\$75,100
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Screening Date 9-Aug-2011

Docket No. 2011-1558-PST-E

PCW

Respondent SHARP INVESTMENT, INC. dba Little Buddy 2

Policy Revision 2 (September 2002)

Case ID No. 42426

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101822310

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

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>)	1	20%
	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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 9-Aug-2011

Docket No. 2011-1558-PST-E

PCW

Respondent SHARP INVESTMENT, INC. dba Little Buddy 2

Policy Revision 2 (September 2002)

Case ID No. 42426

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101822310

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 1

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

Violation Description Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1 4 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

One monthly event is recommended based on documentation of the violation during the August 5, 2011 record review date to the August 9, 2011 screening date.

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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$44

Violation Final Penalty Total \$6,008

This violation Final Assessed Penalty (adjusted for limits) \$6,008

Economic Benefit Worksheet

Respondent SHARP INVESTMENT, INC. dba Little Buddy 2
Case ID No. 42426
Req. Ent. Reference No. RN101822310
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)	\$1,500	5-Aug-2011	6-Mar-2012	0.59	\$44	n/a	\$44

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases. The date required is the record review date and the final date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$44

Screening Date 9-Aug-2011

Docket No. 2011-1558-PST-E

PCW

Respondent SHARP INVESTMENT, INC. dba Little Buddy 2

Policy Revision 2 (September 2002)

Case ID No. 42426

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101822310

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report to the TCEQ a suspected release within 24 hours after discovery. Specifically, inventory control records for July and August 2010 indicated a suspected release that was not reported.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%
100% of the rule requirement was not met.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$2,500

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$3,004

This violation Final Assessed Penalty (adjusted for limits) \$3,004

Economic Benefit Worksheet

Respondent SHARP INVESTMENT, INC. dba Little Buddy 2
Case ID No. 42426
Req. Ent. Reference No. RN101822310
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)	\$250	5-Aug-2011	6-Mar-2012	0.59	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to establish and implement a process for reporting a suspected release. The date required is the record review date and the final date is the estimated compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	1-Sep-2010	2-Sep-2010	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to report a suspected release. The date required is the date of suspected release and the final date is the date the report was due.

Approx. Cost of Compliance

\$350

TOTAL

\$107

Screening Date 9-Aug-2011

Docket No. 2011-1558-PST-E

PCW

Respondent SHARP INVESTMENT, INC. dba Little Buddy 2

Policy Revision 2 (September 2002)

Case ID No. 42426

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101822310

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for July and August 2010 indicated a suspected release that was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

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

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 11 328 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$55,000

Eleven monthly events are recommended from the release investigation due date of September 15, 2010 to the August 9, 2011 screening date.

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 \$55,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$72

Violation Final Penalty Total \$66,088

This violation Final Assessed Penalty (adjusted for limits) \$66,088

Economic Benefit Worksheet

Respondent SHARP INVESTMENT, INC. dba Little Buddy 2
Case ID No. 42426
Req. Ent. Reference No. RN101822310
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
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)	\$1,000	1-Oct-2010	6-Mar-2012	1.43	\$72	n/a	\$72

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The date required is the date the release investigation was due and the final date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$72

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SHARP INVESTMENT, INC. DBA
LITTLE BUDDY 2;
RN101822310**

§
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§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1558-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 facility's fuel delivery certificate. The respondent made the subject of this Order is Sharp Investment, Inc. d/b/a Little Buddy 2 ("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), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 2001 S. Wayside Dr. in Houston, Harris 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 September 28, 2010, and a record review conducted on August 5, 2011, a UT Arlington PST Program investigator documented that Respondent:
 - a. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring);
 - b. Failed to report to the TCEQ a suspected release within 24 hours after discovery. Specifically, inventory control records for July and August 2010 indicated a suspected release that was not reported; and
 - c. Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for July and August 2010 indicated a suspected release that was not investigated.
3. Respondent received notice of the violations on or about August 10, 2011.
4. The Executive Director recognizes that Respondent began monitoring the USTs for releases as of April 3, 2012.

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 Sharp Investment, Inc. d/b/a Little Buddy 2" (the "EDPRP") in the TCEQ Chief Clerk's office on January 20, 2012.
6. By letter dated January 20, 2012, 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. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

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 monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to report to the TCEQ a suspected release within 24 hours after discovery, in violation of 30 TEX. ADMIN. CODE § 334.72.
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to investigate a suspected release of regulated substances within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74.
5. 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(c)(2).
6. 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.
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 seventy-five thousand one hundred dollars (\$75,100.00) 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. 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.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact No. 2 and 5 through 7, and Conclusions of Law Nos. 2 through 6.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of seventy-five thousand one hundred dollars (\$75,100.00) 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: Sharp Investment, Inc. d/b/a Little Buddy 2; Docket No. 2011-1558-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. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order.
4. 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.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's 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 written certification in accordance with Ordering Provision No. 7.d., below, to demonstrate compliance with Ordering Provisions Nos. 4 and 5.
7. Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, Respondent shall conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74.
 - b. Within 30 days after the effective date of this Order, Respondent shall establish and implement a process for reporting a suspected release, in accordance with 30 TEX. ADMIN. CODE § 334.72.
 - c. Within 45 days after the effective date of this Order, Respondent shall submit written certification, as described in Ordering Provision No. 7.d., below, to demonstrate compliance with Ordering Provisions Nos. 7.a. and 7.b.
 - d. The certifications 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 certifications 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:

Nicole Bealle, Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

8. 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).
9. All relief not expressly granted in this Order is denied.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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 PEIPEY TANG

STATE OF TEXAS

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§
§

COUNTY OF TRAVIS

"My name is Peipey Tang. 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 Sharp Investment, Inc. d/b/a Little Buddy 2" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on January 20, 2012.

The EDPRP was mailed to Respondent's last known address on January 20, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

Peipey Tang

Peipey Tang, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 14th day of May, A.D. 2012.

Margaret Jackson

Notary Signature

