

Wright Fuel Distributors, LLC and WRIGHT JOSHUA INVESTMENTS, LLC, dba Wright Stop 343

RN102446739

Docket No. 2012-2057-PST-E

Order Type:

Default Shutdown Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1200 Mansfield Drive, Port Mansfield, Willacy 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: December 6, 2013**Comments Received:** None**Penalty Information****Total Penalty Assessed:** \$8,878**Total Paid to General Revenue:** \$0**Total Due to General Revenue:** \$8,878**Compliance History Classifications:**

Person/CN – High (Wright Fuel Distributors, LLC);
Satisfactory (WRIGHT JOSHUA INVESTMENTS, LLC)

Site/RN – Unclassified

Major Source: No**Statutory Limit Adjustment:** None**Applicable Penalty Policy:** September 2011**Investigation Information****Complaint Date(s):** N/A**Date(s) of Investigation:** June 27, 2012; September 26, 2012**Date(s) of NOV(s):** N/A**Date(s) of NOE(s):** September 26, 2012

Wright Fuel Distributors, LLC and WRIGHT JOSHUA INVESTMENTS, LLC, dba Wright Stop 343
RN102446739
Docket No. 2012-2057-PST-E

Violation Information

1. Failed to provide proper corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)].
2. Failed to monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide proper release detection for the product piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2)].
3. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].

Corrective Actions/Technical Requirements

Technical Requirements:

1. Immediately shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.
2. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and corrosion protection violations have been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
3. 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 set forth in the Order, including payment of the administrative penalty.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, Respondent shall surrender the Facility's UST fuel delivery certificate to the TCEQ.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
 - a. Install a corrosion protection system for all components of the UST system at the Facility;
 - b. Install and implement a release detection method for the UST system at the Facility;
 - c. Install and implement a release detection method for the piping associated with the UST system at the Facility;
 - d. Begin maintaining all UST records and ensure they are made readily available for inspection upon request by agency personnel; and
 - e. Obtain a new fuel delivery certificate.
- f. 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.
- g. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Wright Fuel Distributors, LLC and WRIGHT JOSHUA INVESTMENTS, LLC, dba Wright Stop 343

RN102446739

Docket No. 2012-2057-PST-E

Litigation Information

Date Petition(s) Filed: March 20, 2013; May 1, 2013

Date Green Card(s) Signed: March 25, 2013 (Wright Fuel Distributors, LLC);
May 3, 2013 (WRIGHT JOSHUA INVESTMENTS, LLC); and
May 10, 2013 (Wright Fuel Distributors, LLC)

Date Answer(s) Filed: April 18, 2013 (Wright Fuel Distributors, LLC)

SOAH Referral Date: June 3, 2013

Hearing Date(s):

 Preliminary hearing: July 18, 2013 (defaulted)

 Evidentiary hearing: N/A

Contact Information

TCEQ Attorneys: Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Blas Coy, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Thomas Greimel, Enforcement Division, (512) 239-2570

TCEQ Regional Contact: Francisco J. Chavero, Jr., Harlingen Regional Office, (956) 425-6010

Respondent Contact: Abid Hassan, Director, Wright Fuel Distributors, LLC, 4023 South Main Street, Euless, Texas 76040

 Rafique Hassan, Director, Wright Fuel Distributors, LLC, 3336 Lexington Avenue, Grapevine, Texas 76051

 W. Christopher Wright, President, WRIGHT JOSHUA INVESTMENTS, LLC, 1317 North FM 509, Harlingen, Texas 78550

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	1-Oct-2012	Screening	10-Oct-2012	EPA Due	
	PCW	14-Feb-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Wright Fuel Distributors, LLC dba Wright Stop 343		
Reg. Ent. Ref. No.	RN102446739		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45182	No. of Violations	3
Docket No.	2012-2057-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Had Darling
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0%	Reduction	Subtotals 2, 3, & 7	<input type="text" value="-\$875"/>
Notes	<input type="text" value="Reduction due to high performer classification."/>			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	<input type="text" value="The Respondent does not meet the culpability criteria."/>			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	<input type="text" value="\$0"/>
Economic Benefit	0.0%	Enhancement*	Subtotal 6	<input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$580"/>	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	<input type="text" value="\$8,118"/>			

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	<input type="text" value="Recommended enhancement to cover the avoided cost of compliance associated with violation no. 2, and offset reduction for compliance history."/>
Final Penalty Amount <input type="text" value="\$8,878"/>	

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	<input type="text" value="Deferral not offered for non-expedited settlement."/>
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PAYABLE PENALTY

Screening Date 10-Oct-2012 **Docket No.** 2012-2057-PST-E
Respondent Wright Fuel Distributors, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Had Darling

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> **Compliance History Summary**

Compliance History Notes

Reduction due to high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% -10%

Screening Date 10-Oct-2012 **Docket No.** 2012-2057-PST-E
Respondent Wright Fuel Distributors, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Had Darling

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide proper corrosion protection for the underground storage tank ("UST") system.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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 \$21,250

\$3,750

Violation Events

Number of Violation Events 1 14 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the September 26, 2012 record review date to the October 10, 2012 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 \$3,750

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$365 **Violation Final Penalty Total** \$3,805

This violation Final Assessed Penalty (adjusted for limits) \$3,805

Economic Benefit Worksheet

Respondent Wright Fuel Distributors, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media Violation No. 1
Media Petroleum Storage Tank

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	\$6,000	27-Jun-2012	10-May-2013	0.87	\$17	\$347	\$365
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a corrosion protection system and test the system. The Date Required is the investigation date 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

\$6,000

TOTAL

\$365

Screening Date	10-Oct-2012	Docket No.	2012-2057-PST-E	PCW
Respondent	Wright Fuel Distributors, LLC dba Wright Stop 343			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45182			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102446739			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Had Darling			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)			
Violation Description	Failed to monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide proper release detection for the product piping associated with the UST system. Specifically, the annual line leak detector and piping tightness tests were not conducted by the due date of December 21, 2011.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Harm				
	Release	Major	Moderate	Minor		
	Actual					
	Potential	x			Percent	15.0%

>> Programmatic Matrix

		Harm				
	Falsification	Major	Moderate	Minor		
					Percent	0.0%

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 \$21,250

\$3,750

Violation Events

Number of Violation Events: 1 14 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the September 26, 2012 record review date to the October 10, 2012 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 \$3,750

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$193	Violation Final Penalty Total \$3,805
This violation Final Assessed Penalty (adjusted for limits) \$3,805	

Economic Benefit Worksheet

Respondent Wright Fuel Distributors, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media Violation No. Petroleum Storage Tank
 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)	\$1,500	27-Jun-2012	10-May-2013	0.87	\$65	n/a	\$65

Notes for DELAYED costs

Estimated cost to provide release detection for the UST system. The date required is the investigation date 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]	\$118	21-Dec-2011	26-Sep-2012	1.68	\$10	\$118	\$128
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual line leak detector and piping tightness testing. The date required is the date the piping tightness and line leak detector testing was due and the final date is the record review date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$193

Screening Date	10-Oct-2012	Docket No.	2012-2057-PST-E	PCW
Respondent	Wright Fuel Distributors, LLC dba Wright Stop 343			<i>Policy Revision 3 (September 2011)</i>
Case ID No.	45182			<i>PCW Revision August 3, 2011</i>
Reg. Ent. Reference No.	RN102446739			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Had Darling			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)			
Violation Description	Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.			
		Base Penalty	\$25,000	

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				Percent <input type="text" value="0.0%"/>
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent <input type="text" value="5.0%"/>
Matrix Notes	100 percent of the rule requirement was not met.				
			Adjustment	\$23,750	

Violation Events

Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="1"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$1,250"/>
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
	One single event is recommended.			

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
		Violation Subtotal	<input type="text" value="\$1,250"/>

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

Estimated EB Amount	<input type="text" value="\$22"/>	Violation Final Penalty Total	<input type="text" value="\$1,268"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,268"/>	

Economic Benefit Worksheet

Respondent Wright Fuel Distributors, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media Violation No. Petroleum Storage Tank
 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	\$500	27-Jun-2012	10-May-2013	0.87	\$22	n/a	\$22
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The date required is the investigation date 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 \$500

TOTAL \$22



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	1-Oct-2012			
	PCW	29-Apr-2013	Screening	10-Oct-2012	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	WRIGHT JOSHUA INVESTMENTS, LLC dba Wright Stop 343			
Reg. Ent. Ref. No.	RN102446739			
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	45182	No. of Violations	3
Docket No.	2012-2057-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Had Darling
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$8,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Reduction **Subtotals 2, 3, & 7** **\$0**

Notes No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$580
 Approx. Cost of Compliance #NAME? **Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **1.5%** **Adjustment** **\$128**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to cover the avoided cost of compliance associated with violation no. 2.

Final Penalty Amount **\$8,878**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$8,878**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$8,878**

Screening Date 10-Oct-2012 **Docket No.** 2012-2057-PST-E
Respondent WRIGHT JOSHUA INVESTMENTS, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Had Darling

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 10-Oct-2012 **Docket No.** 2012-2057-PST-E
Respondent WRIGHT JOSHUA INVESTMENTS, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Had Darling

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

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="15.0%"/>
	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="0.0%"/>

Matrix Notes

Adjustment

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 EDRP/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

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 WRIGHT JOSHUA INVESTMENTS, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media Violation No. 1
Media Petroleum Storage Tank

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	\$6,000	27-Jun-2012	10-May-2013	0.87	\$17	\$347	\$365
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to install a corrosion protection system and test the system. The Date Required is the investigation date 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	\$6,000	TOTAL	\$365
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Screening Date 10-Oct-2012 **Docket No.** 2012-2057-PST-E
Respondent WRIGHT JOSHUA INVESTMENTS, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Had Darling

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide proper release detection for the product piping associated with the UST system. Specifically, the annual line leak detector and piping tightness tests were not conducted by the due date of December 21, 2011.

Base Penalty \$25,000

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

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 \$21,250

\$3,750

Violation Events

Number of Violation Events 1 14 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended from the September 26, 2012 record review date to the October 10, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction
 Before NOV NOV to EDRP/Settlement Offer

\$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$193

Violation Final Penalty Total \$3,805

This violation Final Assessed Penalty (adjusted for limits) \$3,805

Economic Benefit Worksheet

Respondent WRIGHT JOSHUA INVESTMENTS, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media Violation No. Petroleum Storage Tank
 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)	\$1,500	27-Jun-2012	10-May-2013	0.87	\$65	n/a	\$65

Notes for DELAYED costs

Estimated cost to provide release detection for the UST system. The date required is the investigation date 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]	\$118	21-Dec-2011	26-Sep-2012	1.68	\$10	\$118	\$128
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual line leak detector and piping tightness testing. The date required is the date the piping tightness and line leak detector testing was due and the final date is the record review date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$193

Screening Date 10-Oct-2012 **Docket No.** 2012-2057-PST-E
Respondent WRIGHT JOSHUA INVESTMENTS, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Had Darling

Policy Revision 3 (September 2011)
PCW Revision August 3, 2011

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"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

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"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

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

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 WRIGHT JOSHUA INVESTMENTS, LLC dba Wright Stop 343
Case ID No. 45182
Reg. Ent. Reference No. RN102446739
Media Violation No. Petroleum Storage Tank
 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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	\$500	27-Jun-2012	10-May-2013	0.87	\$22	n/a	\$22
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to maintain UST records. The date required is the investigation date 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

TOTAL

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PENDING Compliance History Report for CN604094631, RN102446739, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN604094631, Wright Fuel Distributors, LLC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102446739, Wright Stop 343	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	3	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	1200 MANSFIELD DR PORT MANSFIELD, TX 78598, WILLACY COUNTY		
TCEQ Region:	REGION 15 - HARLINGEN		
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	70777	

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 9/1/2012

Date Compliance History Report Prepared: November 2, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 02, 2007 to November 02, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Herbert Darling

Phone: (512) 239-2570

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? WRIGHT JOSHUA INVESTMENTS, LLC OWNER since 3/16/2001
Wright Fuel Distributors, LLC OPERATOR since 10/13/2011
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? Quality Retail Services, Inc., OPERATOR, 3/16/2001 to 10/13/2011
- 5) If YES, when did the change(s) in owner or operator occur? 10/13/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN601104888, RN102446739, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN601104888, WRIGHT JOSHUA INVESTMENTS, LLC	Classification: SATISFACTORY	
		Rating: 11.88	
Regulated Entity:	RN102446739, Wright Stop 343	Classification: UNCLASSIFIED	Rating: -----
Complexity Points:	6	Repeat Violator: NO	
CH Group:	14 - Other		
Location:	1200 MANSFIELD DR PORT MANSFIELD, TX 78598, WILLACY COUNTY		
TCEQ Region:	REGION 15 - HARLINGEN		
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION 70777		
Compliance History Period:	September 01, 2007 to August 31, 2012	Rating Year: 2012	Rating Date: 9/1/2012
Date Compliance History Report Prepared:	April 26, 2013		
Agency Decision Requiring Compliance History:	Enforcement		
Component Period Selected:	April 26, 2008 to April 26, 2013		
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.			
Name:	Herbert Darling	Phone:	(512) 239-2570

Site and Owner/Operator History:

- 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** for #2, who is the current owner/operator? WRIGHT JOSHUA INVESTMENTS, LLC OWNER since 3/16/2001
Wright Fuel Distributors, LLC OPERATOR since 10/13/2011
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? Quality Retail Services, Inc., OPERATOR, 3/16/2001 to 10/12/2011
- 5) If **YES**, when did the change(s) in owner or operator occur? 10/13/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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 § **BEFORE THE**
ENFORCEMENT ACTION §
CONCERNING §
WRIGHT FUEL DISTRIBUTORS, LLC § **TEXAS COMMISSION ON**
AND WRIGHT JOSHUA §
INVESTMENTS, LLC, §
DBA WRIGHT STOP 343; §
RN102446739 § **ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2012-2057-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended 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 respondents, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondents to shutdown and remove from service the underground storage tanks ("USTs") located at 1200 Mansfield Drive in Port Mansfield, Willacy County, Texas. The respondents made the subject of this Order are Wright Fuel Distributors, LLC and WRIGHT JOSHUA INVESTMENTS, LLC, dba Wright Stop 343 ("Respondents").

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

FINDINGS OF FACT

1. Wright Fuel Distributors, LLC operates, as defined in 30 TEX. ADMIN. CODE § 334.2(70), and WRIGHT JOSHUA INVESTMENTS, LLC owns, as defined in 30 TEX. ADMIN. CODE § 334.2(73), a UST system and a convenience store with retail sales of gasoline located at 1200 Mansfield Drive in Port Mansfield, Willacy County, Texas (Facility ID No. 70777) (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 June 27, 2012, and a record review conducted on September 26, 2012, a UT Arlington PST Program investigator (TCEQ Contractor) documented that Respondents:
 - a. Failed to provide proper corrosion protection for the UST system;
 - b. Failed to monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide proper release detection for the product piping associated with the UST system (the annual line leak detector and piping tightness tests were not conducted by the due date of December 21, 2011); and
 - c. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.

3. By letter dated September 26, 2012, UT Arlington provided Respondents with notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Wright Fuel Distributors, LLC dba Wright Stop 343" (the "EDPRP") in the TCEQ Chief Clerk's office on March 20, 2013.
5. By letter dated March 20, 2013, sent to Wright Fuel Distributors, LLC's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Wright Fuel Distributors, LLC with notice of the EDPRP. According to the return receipt "green card," Wright Fuel Distributors, LLC received notice of the EDPRP on March 25, 2013, as evidenced by the signature on the card.
6. Wright Fuel Distributors, LLC filed an answer requesting a hearing on April 18, 2013.
7. The Executive Director filed the "Executive Director's First Amended 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 Wright Fuel Distributors, LLC and WRIGHT JOSHUA INVESTMENTS, LLC, dba Wright Stop 343" (the "EDFARP") in the TCEQ Chief Clerk's office on May 1, 2013.
8. By letter dated May 1, 2013, sent to each Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served each Respondent with notice of the EDFARP. According to USPS.com "Track & Confirm" delivery confirmation records, WRIGHT JOSHUA INVESTMENTS, LLC received notice of the EDFARP on May 3, 2013, and Wright Fuel Distributors, LLC received notice of the EDFARP on May 10, 2013.
9. The matter was referred to the State Office of Administrative Hearings ("SOAH") on June 3, 2013.
10. On June 18, 2013, the TCEQ Chief Clerk mailed notice of the July 18, 2013 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid, to each Respondent.
11. On July 18, 2013, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondents failed to appear, and the Executive Director requested that the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
12. On July 23, 2013, the ALJ entered a finding that each Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 1, Dismissing and Remanding Case so that TCEQ may dispose of this case on a default basis.
13. By letter dated October 7, 2013, the Executive Director provided Respondents with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondents failed to correct the release detection and corrosion protection violations within 30 days after Respondents' receipt of the notice.

14. As of the date of entry of this Order, Respondents have not provided the Executive Director with documentation demonstrating that the release detection and corrosion protection violations alleged in Findings of Fact Nos. 2.a. and 2.b. have been corrected.
15. The USTs at the Facility do not have release detection and corrosion protection as required by TEX. WATER CODE § 26.3475(a), (c)(1) and (d), and 30 TEX. ADMIN. CODE §§ 334.49(a) and 334.50(b)(1)(A) and (b)(2), and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are 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., Respondents failed to provide proper corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide proper release detection for the product piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2).
4. As evidenced by Finding of Fact No. 2.c., Respondents failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
5. As evidenced by Findings of Fact Nos. 7 and 8, the Executive Director timely served WRIGHT JOSHUA INVESTMENTS, LLC with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
6. As evidenced by Findings of Fact Nos. 6 and 9, Wright Fuel Distributors, LLC filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
7. As evidenced by Finding of Fact No. 10, each Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV'T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.103(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
8. As evidenced by Findings of Fact Nos. 11 and 12, Respondents failed to appear for the preliminary hearing, and pursuant to TEX. GOV'T CODE § 2001.056(4), TEX. WATER CODE § 7.057, and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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.

10. An administrative penalty in the amount of eight thousand eight hundred seventy-eight dollars (\$8,878.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. As evidenced by Findings of Fact Nos. 2.a., 2.b., 3, 13, and 14, Respondents failed to correct documented violations of Commission release detection and corrosion protection requirements within 30 days after Respondents received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.
12. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill protection for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
13. 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.
14. 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.
15. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 11, and Conclusions of Law Nos. 2 through 8.
16. As evidenced by Findings of Fact Nos. 14 and 15, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

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

1. Immediately upon the effective date of this Order, Respondents shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The USTs at the Facility shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) and as directed by Ordering Provisions Nos. 1.a. through 1.e., until such time as Respondents demonstrate to the satisfaction of the Executive Director that the release detection and corrosion protection violations noted in Conclusions of Law Nos. 2 and 3 have been corrected and Respondents obtain a new fuel delivery certificate for the Facility.

3. If Respondents elect to permanently remove from service any portion of the UST system at the Facility, Respondents shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

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

4. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondents may submit an application for a new fuel delivery certificate only after Respondents have complied with all of the requirements set forth in this Order, including payment of the administrative penalty.
5. Immediately upon the effective date of this Order, Respondents shall cease accepting fuel at the Facility 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.
6. Within 10 days after the effective date of this Order, Respondents 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

7. Within 15 days after the effective date of this Order, Respondents shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 5 and 6.
8. Respondents are assessed an administrative penalty in the amount of eight thousand eight hundred seventy-eight dollars (\$8,878.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' 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.
9. 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: Wright Fuel Distributors, LLC and WRIGHT JOSHUA INVESTMENTS, LLC, dba Wright Stop 343; Docket No. 2012-2057-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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondents shall undertake the following technical requirements:
 - a. Install a corrosion protection system for all components of the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - b. Install and implement a release detection method for the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - c. Install and implement a release detection method for the piping associated with the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - d. Begin maintaining all UST records and ensure they are made readily available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10; and
 - e. Obtain a new fuel delivery certificate from the TCEQ.
11. Upon obtaining a new fuel delivery certificate, Respondents 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).
12. Within 10 days of resuming retail sales of gasoline, Respondents shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.
13. 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."

Respondents 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:

Francisco J. Chavero, Jr., Waste Section Manager
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 W. Jefferson Avenue
Harlingen TX 78550-5247

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

15. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
16. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
17. 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
18. 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 Respondents if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Order.
19. 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.
20. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date this Order was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JENNIFER COOK

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

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"My name is Jennifer Cook. 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 Wright Fuel Distributors, LLC dba Wright Stop 343" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 20, 2013.

The EDPRP was mailed to Wright Fuel Distributors, LLC's last known address on March 20, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Wright Fuel Distributors, LLC received notice of the EDPRP on March 25, 2013, as evidenced by the signature on the card.

Wright Fuel Distributors, LLC filed an answer requesting a hearing on April 18, 2013.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's First Amended 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 Wright Fuel Distributors, LLC and WRIGHT JOSHUA INVESTMENTS, LLC, dba Wright Stop 343" (the "EDFARP") was filed in the TCEQ Chief Clerk's office on May 1, 2013.

The EDFARP was mailed to each Respondent's last known address on May 1, 2013, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, WRIGHT JOSHUA INVESTMENTS, LLC received notice of the EDFARP on May 3, 2013, and Wright Fuel Distributors, LLC received notice of the EDFARP on May 10, 2013.

The matter was referred to the State Office of Administrative Hearings ("SOAH") on June 3, 2013. On June 18, 2013, the TCEQ Chief Clerk mailed notice of the July 18, 2013 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid, to each Respondent.

Respondents failed to appear at the hearing on July 18, 2013. At that hearing, I requested that the ALJ enter a finding that each Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the agency for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 1, Dismissing and Remanding Case, issued on July 23, 2013, so that TCEQ may dispose of this case on a default basis.

By letter dated October 7, 2013, sent via first class mail and certified mail, return receipt requested article nos. 7012 3050 0002 0159 2922, 7012 3050 0002 0159 2939, and 7012 3050 0002 0159 2946 to Wright Fuel Distributors, LLC, and return receipt requested article

no. 7012 3050 0002 0159 2953 to WRIGHT JOSHUA INVESTMENTS, LLC, I provided each Respondent with notice of the TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the violations pertaining to release detection and corrosion protection were not corrected within 30 days of Respondents' receipt of the letter. According to USPS.com "Track & Confirm" delivery confirmation records, WRIGHT JOSHUA INVESTMENTS, LLC signed the certified mail "green card" on October 10, 2013. The United States Postal Service returned the Notice sent to Wright Fuel Distributors, LLC by certified mail as "unclaimed." The first class mail has not been returned.

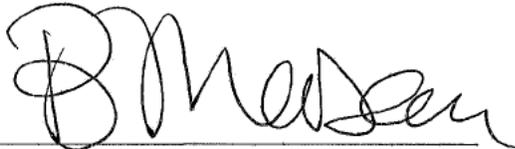
As of the date of this affidavit, I am not aware of any evidence that indicates that Respondents have corrected the release detection and corrosion protection violations noted during the June 27, 2012, investigation."



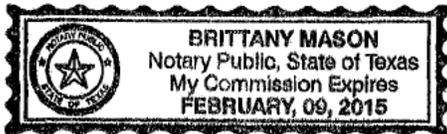
Jennifer Cook, Special Counsel
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jennifer Cook, 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 19th day of December A.D. 2013.



Notary Signature



Notary without Bond