

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45642
CROCKETT ENTERPRISES INC d/b/a Easy Shop
RN101893097
Docket No. 2014-0172-PST-E

Order Type:

Default Order (SOAH preliminary hearing)

Media:

Petroleum Storage Tank

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

921 S. 4th Street, Crockett, Houston 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: November 7, 2014

Comments Received: None

Penalty Information

Total Penalty Assessed: \$10,604

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$10,604

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

CROCKETT ENTERPRISES INC d/b/a Easy Shop

RN101893097

Docket No. 2014-0172-PST-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: November 20, 2013
Date(s) of NOV(s): N/A
Date(s) of NOE(s): January 8, 2014

Violation Information

Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring [TEX. WATER CODE § 26.3475(c)(1); 30 TEX. ADMIN. CODE § 334.50(b)(1)(A); and TCEQ Agreed Order Docket No. 2012-2491-PST-E, Ordering Provision No. 2.a.].

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

Respondent no longer owns or operates the Facility as of January 15, 2014.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: July 30, 2014
Date Green Card(s) Signed: August 1, 2014
Date Answer(s) Filed: June 25, 2014
SOAH Referral Date: July 28, 2014
Hearing Date(s):
Preliminary hearing: September 18, 2014 (defaulted)

Contact Information

TCEQ Attorneys: Meaghan M. Bailey, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Aaron Tucker, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Michael Pace, Enforcement Division, 817-588-5933

TCEQ Regional Contact: Marilyn Gates, Beaumont Regional Office, 409-892-2119

Respondent Contact: Muhammad S. Bashir, Director, CROCKETT ENTERPRISES INC, 921 S. 4th Street, Crockett, Texas 75835

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	21-Jan-2014		
	PCW	24-Apr-2014	Screening	29-Jan-2014
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	CROCKETT ENTERPRISES INC dba Easy Shop
Reg. Ent. Ref. No.	RN101893097
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	45642	No. of Violations	1
Docket No.	2014-0172-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mike Pace
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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	\$1,500

Notes: Enhancement for one agreed order with a denial of liability.

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
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$1,604	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$1,500		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	17.8%	Adjustment	\$1,604
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes: Recommended enhancement to capture the avoided cost of compliance associated with the violation.

Final Penalty Amount	\$10,604
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,604
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction)				

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$10,604
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Screening Date 29-Jan-2014

Docket No. 2014-0172-PST-E

PCW

Respondent CROCKETT ENTERPRISES INC dba Easy Shop

Policy Revision 3 (September 2011)

Case ID No. 45642

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101893097

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one agreed order with a denial of liability.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date	29-Jan-2014	Docket No.	2014-0172-PST-E	PCW
Respondent	CROCKETT ENTERPRISES INC dba Easy Shop	<i>Policy Revision 3 (September 2011)</i>		
Case ID No.	45642	<i>PCW Revision August 3, 2011</i>		
Reg. Ent. Reference No.	RN101893097			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Mike Pace			
Violation Number	1			
Rule Cite(s)	TCEQ Agreed Order Docket No.2012-2491-PST-E, Ordering Provision No. 2.a. and 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				\$25,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			Percent
	Release	Major	Moderate	
	Actual			
	Potential	x		15.0%
>> 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		2	Number of violation days	
		171		
<i>mark only one with an x</i>	daily		Violation Base Penalty	
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
			\$7,500	
Two quarterly events are recommended from the July 28, 2013 order effective date to the January 15, 2014 ownership change 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				\$7,500
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$1,604	Violation Final Penalty Total	\$10,604	
This violation Final Assessed Penalty (adjusted for limits)				\$10,604

Economic Benefit Worksheet

Respondent CROCKETT ENTERPRISES INC dba Easy Shop
Case ID No. 45642
Reg. Ent. Reference No. RN101893097
Media Violation No. 1
 Petroleum Storage Tank

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				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

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]	\$1,500	28-Jul-2013	15-Jan-2014	1.39	\$104	\$1,500	\$1,604
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of monitoring the USTs for releases. The date required is the order effective date, and the final date is the ownership change date.

Approx. Cost of Compliance \$1,500

TOTAL \$1,604

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 CN603833187, RN101893097, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN603833187, CROCKETT ENTERPRISES INC **Classification:** SATISFACTORY **Rating:** 45.00

Regulated Entity: RN101893097, Easy Shop **Classification:** SATISFACTORY **Rating:** 45.00

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 921 S 4TH ST CROCKETT, TX 75835-3201, HOUSTON COUNTY

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 4837

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: January 28, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 28, 2009 to January 28, 2014

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

Name: Mike Pace **Phone:** (817) 588-5933

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? CROCKETT ENTERPRISES INC
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? New Alesha Enterprises LLC
- 5) If YES, when did the change(s) in owner or operator occur? 9/1/2010

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

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

- 1 **Effective Date:** 07/28/2013 **ADMINORDER 2012-2491-PST-E (1660 Order-Agreed Order With Denial)**

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: 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), documented during an investigation conducted on July 31, 2012, and a record review conducted on November 21, 2012.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failed to provide release detection for the pressurized piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), documented during an investigation on July 31, 2012, and a record review conducted on November 21, 2012. Specifically, Respondent did not conduct the annual piping tightness test

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CROCKETT ENTERPRISES INC
DBA EASY SHOP;
RN101893097**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2014-0172-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. The respondent made the subject of this Order is CROCKETT ENTERPRISES INC d/b/a Easy Shop ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated, 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 921 S. 4th Street in Crockett, Houston County, Texas (Facility ID No. 4837) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During a record review conducted on November 20, 2013, TCEQ Central Office staff documented that 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).
3. The Executive Director recognizes that Respondent no longer owns or operates the Facility as of January 15, 2014.
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 CROCKETT ENTERPRISES INC d/b/a Easy Shop" (the "EDPRP") in the TCEQ Chief Clerk's office on May 22, 2014.
5. Respondent filed an answer requesting a hearing on June 25, 2014, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 28, 2014.
6. On August 26, 2014, the TCEQ Chief Clerk mailed notice of the September 18, 2014 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
6. On September 18, 2014, the Administrative Law Judge ("ALJ") convened the preliminary hearing. Respondent 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.

7. On September 22, 2014, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 1, Granting Order to Dismiss and Remand, so that TCEQ may dispose of this case on a default basis.

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 TCEQ.
2. As evidenced by Finding of Fact No. 2, 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 TEX. WATER CODE § 26.3475(c)(1); 30 TEX. ADMIN. CODE § 334.50(b)(1)(A); and TCEQ Agreed Order Docket No. 2012-2491-PST-E, Ordering Provision No. 2.a.
3. As evidenced by Finding of Fact No. 5, Respondent 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.
4. As evidenced by Finding of Fact No. 6, 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.
5. As evidenced by Findings of Fact Nos. 7 and 8, Respondent 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 Respondent and assess the penalty recommended by the Executive Director pursuant to 30 TEX. ADMIN. CODE § 70.106(b).
6. 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 TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of ten thousand six hundred four dollars (\$10,604.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of ten thousand six hundred four dollars (\$10,604.00) 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: CROCKETT ENTERPRISES INC d/b/a Easy Shop; Docket No. 2014-0172-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. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. 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.
6. 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. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
8. 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.
9. 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 MEAGHAN M. BAILEY

STATE OF TEXAS

§

COUNTY OF TRAVIS

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"My name is Meaghan M. Bailey. 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 CROCKETT ENTERPRISES INC d/b/a Easy Shop" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 22, 2014.

Respondent filed an answer requesting a hearing on June 25, 2014, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on July 28, 2014. On August 26, 2014, the TCEQ Chief Clerk mailed notice of the September 18, 2014 preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on September 18, 2014. At that hearing, the Executive Director requested that the ALJ enter a finding that 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 TCEQ 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, Granting Order to Dismiss and Remand, issued on September 22, 2014, so that TCEQ may dispose of this case on a default basis."

Meaghan M. Bailey

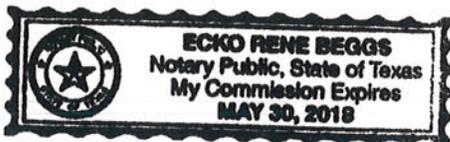
Meaghan M. Bailey, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Meaghan M. Bailey, 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.

Subscribed and sworn to before me on this 9th day of October, A.D. 2014.

Echo R. Beggs

Notary Public, State of Texas



Notary without Bond