

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 51659
Ted Booher d/b/a Rapid Environmental Services, LLC
RN103145876
Docket No. 2015-1845-MLM-E

Order Type:

Default Order

Media:

Used Oil and WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

15721 Montana Avenue, El Paso, El Paso County

Type of Operation:

used oil and used oil filter storage, transfer, and transport facility

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$5,500.00 (Docket No. 2013-1309-MLM-E)
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: September 23, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$3,300

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$3,300

Compliance History Classifications:

Person/CN –Unsatisfactory
Site/RN – Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: May 8, 2015 and October 14, 2015
Date(s) of NOV(s): N/A
Date(s) of NOE(s): November 30, 2015

Violation Information

1. Failed to submit a Notice of Change (“NOC”) within 14 days after the occurrence of an operator name change [40 C.F.R. § 122.26(c), 30 TEX. ADMIN. CODE § 281.25(a)(4), and Texas Pollutant Discharge Elimination System General Permit No. TXR050000, Part II, Section C, No. 6(a)(1)].
2. Failed to register prior to conducting used oil and used oil filter activities at the Facility [30 TEX. ADMIN. CODE §§ 324.4(2)(C)(i), 324.11(2), and 328.24(a) and (b)].
3. Failed to provide financial responsibility with registration to assure the Facility has sufficient assets to provide for proper closure [30 TEX. ADMIN. CODE §§ 328.24(e) and 324.22(c)].
4. Failed to develop a plan to prevent spills and respond to spill in accordance with the federal spill prevention, control, and countermeasure (“SPCC”) requirements [40 C.F.R. §§ 112.3, 112.7, and 279.45 and 30 TEX. ADMIN. CODE § 328.28].
5. Failed to mark or clearly label used oil storage containers with the words “Used Oil” [40 C.F.R. § 279.45(g) and 30 TEX. ADMIN. CODE § 324.11].
6. Failed to prevent the disposal of used oil on the ground [40 C.F.R. § 279.45(h)(3) and 30 TEX. ADMIN. CODE §§ 324.11 and 324.4(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately, cease any additional discharges of used oil at the Facility
2. Within 30 days:
 - a. Cease conducting used oil and used oil filter activities until properly registered, in accordance with 30 TEX. ADMIN. CODE §§ 324.11 and 328.24 (Violation No. 2);
 - b. Submit a complete NOC, including the current operator name, in accordance with 30 TEX. ADMIN. CODE § 281.25 (Violation No. 1);
 - c. Submit a properly completed used oil/used oil filter handler registration (Violation No. 2);
 - d. Submit documentation that demonstrates acceptable financial assurance for proper closure of the Facility (Violation No. 3);
 - e. Develop SPCC plans for the used oil filters and the aboveground storage tanks containing used oil at the Facility (Violation No. 4);
 - f. Appropriately mark all used containers with the words “Used Oil” (Violation No. 5); and
 - g. Submit a report, which shall address all areas where the water and oil mixture was observed at the Facility (Violation No. 6).
3. Within 45 days, submit written certification to demonstrate compliance with Ordering Provisions Nos. 1 through 2.g.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 51659
Ted Booher d/b/a Rapid Environmental Services, LLC
RN103145876
Docket No. 2015-1845-MLM-E

Litigation Information

Date Petition(s) Filed: May 25, 2016
Date Green Card(s) Signed: June 6, 2016
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: David A. Terry, Litigation Division, (512) 239-3400
Ryan Rutledge, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, (713) 767-3682

TCEQ Regional Contact: Kent Waggoner, El Paso Regional Office, (915) 834-4949

Respondent Contact: Ted Booher, Rapid Environmental Services, LLC, P.O. Box 687, Deer Park, Texas 77536

Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014



TCEQ

DATES	Assigned	7-Dec-2015			
	PCW	16-May-2016	Screening	14-Dec-2015	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Ted Booher d/b/a Rapid Environmental Services, LLC				
Reg. Ent. Ref. No.	RN103145876				
Facility/Site Region	6-El Paso	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	51659	No. of Violations	1
Docket No.	2015-1845-MLM-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Danielle Porras
		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** **\$1,250**

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%	Adjustment	Subtotals 2, 3, & 7	\$125
Notes	Enhancement due to unsatisfactory performer classification.			
Culpability	No	0.0%	Enhancement	Subtotal 4
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	\$2	*Capped at the Total EB \$ Amount		
Estimated Cost of Compliance	\$25			

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,375**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
	Final Penalty Amount \$1,375

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,375**

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.
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PAYABLE PENALTY **\$1,375**

Screening Date 14-Dec-2015

Docket No. 2015-1845-MLM-E

PCW

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 51659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103145876

Media [Statute] Water Quality

Enf. Coordinator Danielle Porras

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 judgments 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)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement due to unsatisfactory 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 14-Dec-2015

Docket No. 2015-1845-MLM-E

PCW

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 51659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103145876

Media [Statute] Water Quality

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s) 30 Tex. Admin Code § 281.25(a)(4), 40 Code of Federal Regulations § 122.26(c), and Texas Pollutant Discharge Elimination System General Permit No. TXR050000, Part II, Section C, No. 6(a)(1)

Violation Description Failed to submit a notice of change ("NOC") within 14 days after the occurrence of an operator name change. Specifically, a NOC was not submitted for storm water permit no. TXR05BU27 to reflect the current operator name.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%).

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 61

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Table with columns: Extraordinary, Ordinary, N/A, Notes, Before NOE/NOV, NOE/NOV to EDPRP/Settlement Offer.

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,375

This violation Final Assessed Penalty (adjusted for limits) \$1,375

Economic Benefit Worksheet

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC
Case ID No. 51659
Reg. Ent. Reference No. RN103145876
Media Water Quality
Violation No. 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$25	8-May-2015	2-Sep-2016	1.32	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to complete and submit a NOC to the TCEQ. The Date Required is the initial investigation date and the Final Date is the estimated compliance date.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$25

TOTAL \$2

Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014



TCEQ

DATES	Assigned	7-Dec-2015	Screening	14-Dec-2015	EPA Due	
	PCW	16-May-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	Ted Booher d/b/a Rapid Environmental Services, LLC				
Reg. Ent. Ref. No.	RN103145876				
Facility/Site Region	6-El Paso	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	51659	No. of Violations	5
Docket No.	2015-1845-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,750
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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	10.0%	Adjustment	Subtotals 2, 3, & 7	\$175	
Notes	Enhancement due to unsatisfactory performer classification.				
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	\$230	*Capped at the Total EB \$ Amount			
Estimated Cost of Compliance	\$4,700				

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

Notes		
	Final Penalty Amount	\$1,925

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,925
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.		
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PAYABLE PENALTY	\$1,925
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Screening Date 14-Dec-2015

Docket No. 2015-1845-MLM-E

PCW

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 51659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103145876

Media [Statute] Used Oil

Enf. Coordinator Danielle Porras

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 judgments 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)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement due to unsatisfactory 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 14-Dec-2015

Docket No. 2015-1845-MLM-E

PCW

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 51659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103145876

Media [Statute] Used Oil

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 324.4(2)(C)(i), 324.11(2) and 328.24(a) and (b)

Violation Description

Failed to register prior to conducting used oil and used oil filter activities at the Facility.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 2

61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended from the October 14, 2015 investigation to the December 14, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$66

Violation Final Penalty Total \$550

This violation Final Assessed Penalty (adjusted for limits) \$550

Economic Benefit Worksheet

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC
Case ID No. 51659
Reg. Ent. Reference No. RN103145876
Media Used Oil
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$1,000	8-May-2015	2-Sep-2016	1.32	\$66	n/a	\$66
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility for used oil and used oil filter activities. The Date Required is the initial 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$66

Screening Date 14-Dec-2015

Docket No. 2015-1845-MLM-E

PCW

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 51659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103145876

Media [Statute] Used Oil

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 328.24(e) and 324.22(c)

Violation Description

Failed to provide financial responsibility with registration to assure the Facility has sufficient assets to provide for proper closure.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

61 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

Economic Benefit Worksheet

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC
Case ID No. 51659
Reg. Ent. Reference No. RN103145876
Media Used Oil
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	14-Oct-2015	2-Sep-2016	0.89	\$22	n/a	\$22

Notes for DELAYED costs

Estimated cost to prepare and submit a mechanism to demonstrate financial responsibility. 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

Screening Date 14-Dec-2015

Docket No. 2015-1845-MLM-E

PCW

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 51659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103145876

Media [Statute] Used Oil

Enf. Coordinator Danielle Porras

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 328.28 and 40 Code of Federal Regulations ("CFR") §§ 112.3, 112.7, and 279.45

Violation Description

Failed to develop a plan to prevent spills and respond to spills in accordance with the federal spill prevention, control, and countermeasure ("SPCC") requirements. Specifically, the Respondent has not developed SPCC plans for the used oil filters and the aboveground tanks containing used oil at the Facility.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

61 Number of violation days

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

Violation Base Penalty \$250

One quarterly event is recommended from the October 14, 2015 investigation to the December 14, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$89

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

Economic Benefit Worksheet

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC
Case ID No. 51659
Reg. Ent. Reference No. RN103145876
Media Used Oil
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	14-Oct-2015	2-Sep-2016	0.89	\$89	n/a	\$89

Notes for DELAYED costs Estimated cost to develop SPCC plans for the used oil filters and the aboveground storage tanks containing used oil at the Facility. The Date Required is the investigation date and the Final Date is the estimated compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$2,000	TOTAL	\$89
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Screening Date 14-Dec-2015

Docket No. 2015-1845-MLM-E

PCW

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 51659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103145876

Media [Statute] Used Oil

Enf. Coordinator Danielle Porras

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 324.11 and 40 CFR § 279.45(g)

Violation Description

Failed to mark or clearly label used oil storage containers with the words "Used Oil." Specifically, 19 aboveground storage tanks, in the secondary containment area, containing used oil were not labeled with the words "Used Oil".

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 2

61 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$500

Two monthly events are recommended from the October 14, 2015 investigation to the December 14, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$550

This violation Final Assessed Penalty (adjusted for limits) \$550

Economic Benefit Worksheet

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC
Case ID No. 51659
Reg. Ent. Reference No. RN103145876
Media Used Oil
Violation No. 4

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)	\$200	14-Oct-2015	2-Sep-2016	0.89	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to properly label all the used oil containers with the words "Used Oil". 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 \$200

TOTAL \$9

Screening Date 14-Dec-2015

Docket No. 2015-1845-MLM-E

PCW

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC

Policy Revision 4 (April 2014)

Case ID No. 51659

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN103145876

Media [Statute] Used Oil

Enf. Coordinator Danielle Porras

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code §§ 324.11 and 324.4(1) and 40 CFR § 279.45(h)(3)

Violation Description

Failed to prevent the disposal of used oil on the ground. Specifically, a water and oil mixture was observed on the ramp outside of the secondary containment area.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amount of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$4,750

\$250

Violation Events

Number of Violation Events 1

61 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$250

One quarterly event is recommended from the October 14, 2015 investigation to the December 14, 2015 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$44

Violation Final Penalty Total \$275

This violation Final Assessed Penalty (adjusted for limits) \$275

Economic Benefit Worksheet

Respondent Ted Booher d/b/a Rapid Environmental Services, LLC
Case ID No. 51659
Reg. Ent. Reference No. RN103145876
Media Used Oil
Violation No. 5

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$1,000	14-Oct-2015	2-Sep-2016	0.89	\$44	n/a	\$44
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remediate the affected area and dispose of the oil and water mixture. 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$44

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 CN604302364, RN103145876, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN604302364, Ted Booher **Classification:** UNSATISFACTORY **Rating:** 425.00

Regulated Entity: RN103145876, Thermacycle **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 15721 MONTANA AVE EL PASO, TX 79938-7231, EL PASO COUNTY

TCEQ Region: REGION 06 - EL PASO

ID Number(s): **USED OIL** EPA ID TXR000018416
STORMWATER PERMIT TXR05BU27

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: December 16, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 14, 2010 to December 14, 2015

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

Name: Danielle Porras

Phone: (713) 767-3682

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? NO

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
ENFORCEMENT ACTION
CONCERNING
TED BOOHER DBA
RAPID ENVIRONMENTAL
SERVICES, LLC;
RN103145876**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2015-1845-MLM-E

On _____, 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; TEX. HEALTH & SAFETY CODE ch. 371, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent(s). The respondent made the subject of this Order is Ted Booher d/b/a Rapid Environmental Services, LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates a used oil and used oil filter storage, transfer, and transport facility located at 15721 Montana Avenue in El Paso, El Paso County, Texas (the "Facility"). The Facility involves the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371. The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. During investigations conducted on May 8, 2015 and October 14, 2015, an investigator documented that Respondent:
 - a. Failed to submit a notice of change ("NOC") within 14 days after the occurrence of an operator name change. Specifically, an NOC was not submitted for Stormwater Permit No. TXR05BU27 to reflect the current operator name; and
 - b. Failed to register prior to conducting used oil and used oil filter activities at the Facility.
3. During an investigation conducted on October 14, 2015, an investigator documented that Respondent:
 - a. Failed to provide financial responsibility with registration to assure the Facility has sufficient assets to provide for proper closure;
 - b. Failed to develop a plan to prevent spills and respond to spills in accordance with the federal spill prevention, control, and countermeasure ("SPCC") requirements. Specifically, Respondent has not developed SPCC

plans for the used oil filters and the aboveground storage tanks containing used oil at the Facility;

- c. Failed to mark or clearly label used oil storage containers with the words "Used Oil." Specifically, 19 aboveground storage tanks containing used oil in the secondary containment area were not labeled with the words "Used Oil"; and
 - d. Failed to prevent the disposal of used oil on the ground. Specifically, a water and oil mixture was observed on the ramp outside the secondary containment area.
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 Ted Booher d/b/a Rapid Environmental Services, LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on May 25, 2016.
 5. By letter dated May 25, 2016, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on June 6, 2016, as evidenced by the signature on the card.
 6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 371, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to submit an NOC within 14 days after the occurrence of an operator name change, in violation of 40 C.F.R. § 122.26(c), 30 TEX. ADMIN. CODE § 281.25(a)(4), and Texas Pollutant Discharge Elimination System General Permit No. TXR050000, Part II, Section C, No. 6(a)(1).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to register prior to conducting used oil and used oil filter activities at the Facility, in violation of 30 TEX. ADMIN. CODE §§ 324.4(2)(C)(i), 324.11(2), and 328.24(a) and (b).
4. As evidenced by Finding of Fact No. 3.a., Respondent failed to provide financial responsibility with registration to assure the Facility has sufficient assets to provide for proper closure, in violation of 30 TEX. ADMIN. CODE §§ 328.24(e) and 324.22(c).
5. As evidenced by Finding of Fact No. 3.b., Respondent failed to develop a plan to prevent spills and respond to spill in accordance with the federal SPCC requirements, in violation of 40 C.F.R. §§ 112.3, 112.7, and 279.45 and 30 TEX. ADMIN. CODE § 328.28.

6. As evidenced by Finding of Fact No. 3.c., Respondent failed to mark or clearly label used oil storage containers with the words "Used Oil", in violation of 40 C.F.R. § 279.45(g) and 30 TEX. ADMIN. CODE § 324.11.
7. As evidenced by Finding of Fact No. 4.d., Respondent failed to prevent the disposal of used oil on the ground, in violation of 40 C.F.R. § 279.45(h)(3) and 30 TEX. ADMIN. CODE §§ 324.11 and 324.4(1).
8. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
9. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
10. 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.
11. An administrative penalty in the amount of three thousand three hundred dollars (\$3,300.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. 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 three thousand three hundred dollars (\$3,300.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only 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 violations which are not raised here.
2. The 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 TCEQ and shall be sent with the notation "Re: Ted Booher d/b/a Rapid Environmental Services, LLC; Docket No. 2015-1845-MLM-E" to:

Financial Administration Division
Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, cease any additional discharges of used oil at the Facility (Conclusion of Law No. 7).
 - b. Within 30 days after the effective date of this Order:
 - i. Cease conducting used oil and used oil filter activities until properly registered, in accordance with 30 TEX. ADMIN. CODE §§ 324.11 and 328.24 (Conclusion of Law No. 3);
 - ii. Submit a complete NOC, including the current operator name, in accordance with 30 TEX. ADMIN. CODE § 281.25 (Conclusion of Law No. 2), to:

Storm Water Processing Center, MC-228
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - iii. Submit a properly completed used oil/used oil filter handler registration, in accordance with 30 TEX. ADMIN. CODE § 328.24 (Conclusion of Law No. 3), to:

Municipal Solid Waste Registration Team, MC-129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - iv. Submit documentation that demonstrates acceptable financial assurance for proper closure of the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 328.24(e) and 324.22(c) (Conclusion of Law No. 4), to:

Financial Assurance Team, MC-184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - v. Develop SPCC plans for the used oil filters and the aboveground storage tanks containing used oil at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.28 (Conclusion of Law No. 5);
 - vi. Appropriately mark all used oil containers with the words "Used Oil," in accordance with 40 C.F.R. § 279.45 and 30 TEX. ADMIN. CODE § 324.11 (Conclusion of Law No. 6); and

- vii. Submit a report, in accordance with 30 TEX. ADMIN. CODE § 327.5(c). The report shall address all areas where the water and oil mixture was observed at the Facility. This report shall be submitted to the address listed in Ordering Provision No. 3.c. (Conclusion of Law No. 7).
- c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.b.vii. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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.”

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

Order Compliance Team
Texas Commission on Environmental Quality
Enforcement Division, MC 149A
P.O. Box 13087
Austin, Texas 78711-3087

and:

Waste Section Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-3734

- 4. All relief not expressly granted in this Order is denied.
- 5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
- 6. 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

7. 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.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
10. 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.
11. The Chief Clerk shall provide a copy of this fully executed 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

Date

AFFIDAVIT OF DAVID A. TERRY

STATE OF TEXAS

§

COUNTY OF TRAVIS

§

§

"My name is David A. Terry. 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 Ted Booher d/b/a Rapid Environmental Services, LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 25, 2016.

The EDPRP was mailed to Respondent's last known address on May 25, 2016, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on June 6, 2016, as evidenced by the signature on the card.

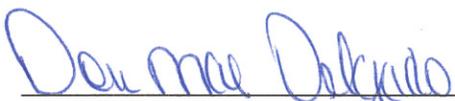
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



David A. Terry, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Subscribed and sworn to before me on this 23rd day of August, A.D. 2016.



Notary Public, State of Texas



Notary without Bond