

Jon Niermann, *Chairman*
Bobby Janecka, *Commissioner*
Catarina R. Gonzales, *Commissioner*
Kelly Keel, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 18, 2024

To: Persons on the Attached Mailing List (Via Email Only)

Re: Executive Director's Request for Remand regarding an Enforcement matter concerning William Scott Egert dba Scotts Complete Car Care in Lubbock County; TCEQ Docket No. 2022-0501-PST-E.

The above-referenced matter is currently scheduled to be considered by the Texas Commission on Environmental Quality at its April 24, 2024, public meeting. However, on April 18, 2024, the Executive Director submitted a request to remand this matter because the Respondent paid the administrative penalty in full and signed an Agreed Order. Pursuant to 30 TAC §10.4, this matter is hereby remanded to the Executive Director.

If you have any questions about this matter, please contact Gregory S. Merrell, Assistant General Counsel, at Gregory.Merrell@tceq.texas.gov.

Respectfully,

A handwritten signature in black ink that reads "Mary Smith".

Mary Smith
General Counsel

Mailing List

Mailing List
William Scott Egert dba Scotts Complete Car Care
TCEQ Docket No. 2022-0501-PST-E

William Scott Egert
7002 Indiana Ave.
Lubbock, Texas 79413-6114
806/785-8180
scottscompletecarcare@yahoo.com

Jason Lindeman
TCEQ Lubbock Regional Office MC R2
5012 50th St., Suite 100
Lubbock, Texas 79414
806/796-7092 FAX 806/796-7107
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Tiffany.Chu@tceq.texas.gov

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TCEQ Interoffice Memorandum

To: Mary Smith, General Counsel
Greg Merrell, Assistant General Counsel

Thru: JSR Jess Robinson, Senior Attorney
Litigation Division

From: CS Cynthia Sirois, Staff Attorney
Litigation Division

Date: April 18, 2024

Subject: Request for Remand
April 24, 2024 Commission Agenda
Item No. 15 – William Scott Egert
Docket No. 2022-0501-PST-E

The Executive Director respectfully requests that the above-referenced item be remanded to the Executive Director. On April 8, 2024, Respondent paid the administrative penalty in full. On April 15, 2024, Respondent signed an Agreed Order, which will be used instead to resolve this matter.

Respondent Contact:
William Scott Egert
7002 Indiana Avenue
Lubbock, Texas 79413-6114

Phone: 806-785-8180

Respondent has been notified of this Request for Remand. Please do not hesitate to call me at (512) 239-3392 if you have any questions regarding this matter.

cc: Tiffany Chu, Enforcement Coordinator
Jason Lindeman, Lubbock Regional Office
Sheldon Wayne, Office of Public Interest Counsel
Michael Parrish, Enforcement Division
Leslie Gann, Enforcement Division
Stuart Beckley, Enforcement Division
Gill Valls, Office of the General Counsel
William Scott Egert, Respondent

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 62276
William Scott Egert dba Scotts Complete Car Care
RN102264058
Docket No. 2022-0501-PST-E

Page 1 of 3

Order Type:

Default Shutdown Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

7002 Indiana Avenue, Lubbock, Lubbock County

Type of Operation:

a temporarily out-of-service underground storage tank (UST) system and an automotive repair shop

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: March 15, 2024

Comments Received: None

Penalty Information

Total Penalty Assessed: \$3,750

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$3,750

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: January 28, 2021

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 28, 2022

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

Date(s) of NOE(s): April 5, 2022

Violation Information

Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

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 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 in full.
3. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the violation has been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
4. Immediately 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 Requirement Nos. 1.a. through 1.e., 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
 - a. Submit documentation that demonstrates acceptable financial assurance for the UST system; and
 - b. Obtain a new fuel delivery certificate.
8. 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.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirement Nos. 7 and 8.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 62276
William Scott Egert dba Scotts Complete Car Care
RN102264058
Docket No. 2022-0501-PST-E

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Litigation Information

Date Petition(s) Filed: October 17, 2023
Date(s) of Service: October 19, 2023
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Cynthia Sirois, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Tiffany Chu, Enforcement Division, (817) 588-5891
TCEQ Regional Contact: Jason Lindeman, Lubbock Regional Office, (806) 796-7092
Respondent Contact: William Scott Egert, Owner, William Scott Egert, 7002 Indiana Avenue, Lubbock,
Texas 79413-6114
Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	11-Apr-2022	Screening	21-Apr-2022	EPA Due	
	PCW	8-Aug-2023				

RESPONDENT/FACILITY INFORMATION

Respondent	William Scott Egert dba Scotts Complete Car Care				
Reg. Ent. Ref. No.	RN102264058				
Facility/Site Region	2-Lubbock	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	62276	No. of Violations	1
Docket No.	2022-0501-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tiffany Chu
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,750
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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	-\$375
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Notes	Reduction for High Performer classification.			
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.			
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$215	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$5,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE	11.1%	Adjustment	\$375
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended adjustment to offset High Performer reduction.			
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Final Penalty Amount	\$3,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,750
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.			
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PAYABLE PENALTY	\$3,750
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Screening Date	21-Apr-2022	Docket No.	2022-0501-PST-E	PCW
Respondent	William Scott Egert dba Scotts Complete Car Care			<i>Policy Revision 5 (January 28, 2021)</i>
Case ID No.	62276			<i>PCW Revision February 11, 2021</i>
Reg. Ent. Reference No.	RN102264058			
Media	Petroleum Storage Tank			
Enf. Coordinator	Tiffany Chu			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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%
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 for 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	21-Apr-2022	Docket No.	2022-0501-PST-E	PCW
Respondent	William Scott Egert dba Scotts Complete Car Care		Policy Revision 5 (January 28, 2021)	
Case ID No.	62276			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN102264058			
Media	Petroleum Storage Tank			
Enf. Coordinator	Tiffany Chu			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)			
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks ("USTs").			
Base Penalty			\$25,000	

>> Environmental, Property and Human Health Matrix

OR		Release	Harm		
			Major Moderate Minor		
	Actual				
	Potential	X			Percent 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 that 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	24	Number of violation days
	daily		
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		
Violation Base Penalty			

\$3,750

One quarterly event is recommended from the March 28, 2022 investigation date to the April 21, 2022 screening date.

Good Faith Efforts to Comply

	0.0%	
		Reduction
		\$0
Extraordinary		
Ordinary		
N/A	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	\$215
Violation Final Penalty Total	\$3,750
This violation Final Assessed Penalty (adjusted for limits)	
\$3,750	

Economic Benefit Worksheet

Respondent William Scott Egert dba Scotts Complete Car Care
Case ID No. 62276
Reg. Ent. Reference No. RN102264058
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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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)	\$5,000	28-Mar-2022	5-Feb-2023	0.86	\$215	n/a	\$215

Notes for DELAYED costs

Estimated delayed cost to conduct a site check and perform any necessary corrective actions. The Date Required is the investigation start date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$215



Compliance History Report

Compliance History Report for CN605964949, RN102264058, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator:	CN605964949, William Scott Egert	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102264058, Scotts Complete Car Care	Classification: HIGH	Rating: 0.00
Complexity Points:	2	Repeat Violator: NO	
CH Group:	01 - Gas Stations with convenience Stores and other Gas Stations		
Location:	7002 INDIANA AVENUE LUBBOCK, LUBBOCK COUNTY, TEXAS 79413-6114		
TCEQ Region:	REGION 02 - LUBBOCK		

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 22070

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: August 08, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 27, 2017 to May 27, 2022

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

Name: Tiffany Chu

Phone: (817) 588-5891

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) Who is the current owner/operator? GROUX, BILL OWNER since 1/1/1800
Bill Groux Texaco OWNER since 1/1/1800
William Scott Egert OWNER since 11/23/2021
- 4) Who was/were the prior owner(s)/operator(s)? Genuine Automotive Services, Inc., OWNER OPERATOR, 11/17/1998 to 11/22/2021

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
WILLIAM SCOTT EGERT
DBA SCOTTS COMPLETE CAR CARE;
RN102264058**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2022-0501-PST-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 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shut down and remove from service the underground storage tanks ("USTs") located at 7002 Indiana Avenue in Lubbock, Lubbock County, Texas. The respondent made the subject of this Order is William Scott Egert dba Scotts Complete Car Care ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(78), a temporarily out-of-service UST system and an automotive repair shop located at 7002 Indiana Avenue in Lubbock, Lubbock County, Texas (Facility ID No. 22070) (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 they contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on March 28, 2022, an investigator documented that Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
3. By letter dated April 5, 2022, Respondent was provided with written 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 William Scott Egert dba Scotts Complete Car Care" (the "EDPRP") in the TCEQ Chief Clerk's office on October 17, 2023.
5. By letter dated October 17, 2023, 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 October 19, 2023, 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.
7. By letter dated December 4, 2023 the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the financial assurance violation within 30 days after Respondent's receipt of the notice.
8. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the violation alleged in Finding of Fact No. 2 has been corrected.
9. The USTs at the Facility do not have financial assurance as required by TEX. WATER CODE § 26.352 and 30 TEX. ADMIN. CODE § 37.815(a) and (b). 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, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. 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).
4. 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.
5. 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.
6. An administrative penalty in the amount of \$3,750 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. As evidenced by Findings of Fact Nos. 2, 3, 7, and 8, Respondent failed to correct documented violations of TCEQ requirement within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.
8. 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 TCEQ regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill prevention for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6, and Conclusions of Law Nos. 2 through 4.
12. As evidenced by Findings of Fact Nos. 8 and 9, 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 it is signed by the Commission.

ORDERING PROVISIONS

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

1. Immediately upon the effective date of this Order, Respondent 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. Secure the dispensers to prevent access;
 - 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, which includes performance of a site check and any necessary corrective actions, unless financial assurance is obtained, in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order, including payment of the administrative penalty in full.
3. The USTs at the Facility shall remain out of service, pursuant to TEX. WATER CODE §§ 26.3475(e) and 26.352(i) and as directed by Ordering Provision Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance violation noted in Conclusion of Law No. 2 has been corrected and Respondent obtains a new fuel delivery certificate for the Facility.
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 in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13 documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 1.e., 4, and 5.
7. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent 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

8. Respondent is assessed an administrative penalty in the amount of \$3,750 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.
9. 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: William Scott Egert dba Scotts Complete Car Care; Docket No. 2022-0501-PST-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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Submit documentation that demonstrates acceptable financial assurance for the UST system, in accordance with 30 TEX. ADMIN. CODE § 37.815; and
 - b. Obtain a new fuel delivery certificate from the TCEQ.
11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13 to demonstrate compliance with Ordering Provision 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 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."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager
Lubbock Regional Office
Texas Commission on Environmental Quality
5012 50th Street, Suite 100
Lubbock, Texas 79414-3426

14. All relief not expressly granted in this Order is denied.
15. 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.
16. 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 Enforcement Division at the address listed above.
17. 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.
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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
19. 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.
20. 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.
21. 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF CYNTHIA K. SIROIS

"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 William Scott Egert dba Scotts Complete Car Care' (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 17, 2023.

The EDPRP was mailed to Respondent's last known address on October 17, 2023, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on October 19, 2023, 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.

By letter dated December 4, 2023, sent via first class mail and certified mail, return receipt requested article no. 7004 2510 0003 9120 0479, I provided Respondent with notice of TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the financial assurance violation was not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent received the notice on December 7, 2023.

As of the date of this declaration, I am not aware of any evidence that indicates that Respondent has corrected the violation noted during the March 28, 2022, investigation."

"My name is Cynthia K. Sirois, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,
on the 23rd day of February, 2024

Cynthia K Sirois

Declarant