

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2006-1881-PST-E **TCEQ ID:** RN102350949 **CASE NO.:** 31567
RESPONDENT NAME: Best Texan, Inc. dba 105 Food Mart

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 105 Food Mart, 690 Highway 105 West, Sour Lake, Hardin County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received August 18, 2006. The complainant indicated that they filled their vehicle up at the facility, and after driving off the vehicle stopped and would not start back up. The vehicle was taken to a repair shop, where they determined that there was bad gas in the fuel system. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 27, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Hamid Maredia, President and Registered Agent, Best Texan, Inc. dba 105 Food Mart, 690 Highway 105 West, Sour Lake, Texas 77659 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 18, 2006</p> <p>Date of Investigation Relating to this Case: September 5, 2006</p> <p>Date of NOE Relating to this Case: October 18, 2006 (NOE)</p> <p>Background Facts: This was a complaint investigation. Six violations were documented.</p> <p>WASTE</p> <p>1) Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>2) Failed to have required UST records maintained, readily accessible and available for inspection upon request by a representative of the TCEQ [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>3) Failure to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)].</p> <p>4) Failure to measure any water level in the bottom of the tanks to the nearest 1/8 inch at least once a month [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(IV) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failure to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH &</p>	<p>Total Assessed: \$5,850</p> <p>Total Deferred: \$1,170 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$195 (the remaining \$4,485 to be paid in 23 monthly payments of \$195 each)</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Best Texan has implemented the following corrective measures at the Station:</p> <p>a. Began conducting bi-monthly inspection of the rectifier and other components of the cathodic protection system on September 15, 2006;</p> <p>b. Began maintaining UST records on September 15, 2006;</p> <p>c. Submitted a completed UST registration and obtained a valid, current delivery certificate on September 6, 2006;</p> <p>d. Began conducting water level measurements for all USTs on September 15, 2006;</p> <p>e. Began maintaining all Stage II records at the Station on September 15, 2006; and</p> <p>f. Replaced the regular unleaded hose and adjusted the length of all hoses on September 15, 2006.</p>

<p>SAFETY CODE § 382.085(b)].</p> <p>6) Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3) and (3)(L) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
---	--	--



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 15, 2005

TCEQ

DATES	Assigned	23-Oct-2006	Screening	24-Oct-2006	EPA Due	
	PCW	30-Oct-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Best Texan, Inc. dba 105 Food Mart
Reg. Ent. Ref. No.	RN102350949
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	31567	No. of Violations	6	
Docket No.	2006-1881-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Jason Godeaux	
Multi-Media		EC's Team	EnforcementTeam 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,000
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10% Enhancement	Subtotals 2, 3, & 7	-\$900
---------------------------	------------------	--------------------------------	--------

Notes	Reduction for high performer classification.
--------------	--

Culpability	No	0% Enhancement	Subtotal 4	\$0
--------------------	----	----------------	-------------------	-----

Notes	The respondent does not meet the culpability criteria.
--------------	--

Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$2,250
------------------------------------	---------------	-------------------	---------

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes	The respondent came into compliance on September 15, 2006.
--------------	--

	0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$5	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,000		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,850
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
---	--	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
--------------	--

Final Penalty Amount	\$5,850
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,850
-----------------------------------	-------------------------------	---------

DEFERRAL	20% Reduction	Adjustment	-\$1,170
-----------------	---------------	-------------------	----------

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

Notes	Deferral offered for expedited settlement.
--------------	--

PAYABLE PENALTY		\$4,680
------------------------	--	---------

Screening Date 24-Oct-2006

Docket No. 2006-1881-PST-E

PCW

Respondent Best Texan, Inc. dba 105 Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31567

PCW Revision February 15, 2005

Reg. Ent. Reference No. RN102350949

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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 Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 24-Oct-2006

Docket No. 2006-1881-PST-E

PCW

Respondent Best Texan, Inc. dba 105 Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31567

PCW Revision February 15, 2005

Reg. Ent. Reference No. RN102350949

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and Tex. Water Code § 26.3475(d)

Violation Description Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating properly.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential	x				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 10

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

Violation Base Penalty \$2,500

One monthly event is recommended from the September 5, 2006 investigation date to the September 15, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

Economic Benefit Worksheet

Respondent Best Texan, Inc. dba 105 Food Mart
Case ID No. 31567
Reg. Ent. Reference No. RN102350949
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	5-Sep-2006	15-Sep-2006	0.0	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to inspect the rectifier and other components of the impressed current, cathodic protection system. The Date Required in the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date 24-Oct-2006

Docket No. 2006-1881-PST-E

PCW

Respondent Best Texan, Inc. dba 105 Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31567

PCW Revision February 15, 2005

Reg. Ent. Reference No. RN102350949

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Best Texan, Inc. dba 105 Food Mart
Case ID No. 31567
Reg. Ent. Reference No. RN102350949
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	5-Sep-2006	15-Sep-2006	0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. The Date Required in the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Screening Date 24-Oct-2006

Docket No. 2006-1881-PST-E

PCW

Respondent Best Texan, Inc. dba 105 Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31567

PCW Revision February 15, 2005

Reg. Ent. Reference No. RN102350949

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)

Violation Description Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on June 30, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 97

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

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the September 5, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$650

This violation Final Assessed Penalty (adjusted for limits) \$650

Economic Benefit Worksheet

Respondent Best Texan, Inc. dba 105 Food Mart
Case ID No. 31567
Reg. Ent. Reference No. RN102350949
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$150	1-Jun-2006	6-Sep-2006	0.3	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to prepare and submit the UST registration & self-certification form. The Date Required in 30 days prior to the expiration date of the delivery certificate and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$2

Screening Date 24-Oct-2006

Docket No. 2006-1881-PST-E

PCW

Respondent Best Texan, Inc. dba 105 Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31567

PCW Revision February 15, 2005

Reg. Ent. Reference No. RN102350949

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.50(d)(1)(B)(iii)(IV) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to measure any water level in the bottom of the tanks to the nearest 1/8 inch at least once a month. Specifically, tank water levels were not being gauged.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 10

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

Violation Base Penalty \$2,500

One monthly event is recommended from the September 5, 2006 investigation date to the September 15, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,625

This violation Final Assessed Penalty (adjusted for limits) \$1,625

Economic Benefit Worksheet

Respondent Best Texan, Inc. dba 105 Food Mart
Case ID No. 31567
Reg. Ent. Reference No. RN102350949
Media Petroleum Storage Tank
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$150	5-Sep-2006	15-Sep-2006	0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to measure water in the tanks. The Date Required in the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$0

Screening Date 24-Oct-2006

Docket No. 2006-1881-PST-E

PCW

Respondent Best Texan, Inc. dba 105 Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31567

PCW Revision February 15, 2005

Reg. Ent. Reference No. RN102350949

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request. Specifically, Stage II test results, employee training, daily and monthly inspection records and a copy of the CARB Executive Order were not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 10 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the September 5, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$650

This violation Final Assessed Penalty (adjusted for limits) \$650

Economic Benefit Worksheet

Respondent Best Texan, Inc. dba 105 Food Mart
Case ID No. 31567
Reg. Ent. Reference No. RN102350949
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	5-Sep-2006	15-Sep-2006	0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost maintain Stage II records. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Screening Date 24-Oct-2006

Docket No. 2006-1881-PST-E

PCW

Respondent Best Texan, Inc. dba 105 Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31567

PCW Revision February 15, 2005

Reg. Ent. Reference No. RN102350949

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jason Godeaux

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 115.242(3) and (3)(L) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the regular unleaded hose had several large holes and was splitting apart. Also, two regular and two super unleaded hoses were in contact with the ground more than six inches.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

10 Number of violation days

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the September 5, 2006 investigation date to the September 15, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$650

This violation Final Assessed Penalty (adjusted for limits) \$650

Economic Benefit Worksheet

Respondent Best Texan, Inc. dba 105 Food Mart

Case ID No. 31567

Reg. Ent. Reference No. RN102350949

Media Petroleum Storage Tank

Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment	\$1,000	5-Sep-2006	15-Sep-2006	0.0	\$0	\$2	\$2
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the hoses. The Date Required in the Investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$2

Compliance History

Customer/Respondent/Owner-Operator:	CN602951246	Best Texan, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102350949	105 FOOD MART	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	27470
Location:	690 HIGHWAY 105 W, SOUR LAKE, TX, 77659		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	October 27, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 27, 2001 to October 27, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jason Godeaux Phone: 512-239-2541

Site Compliance History Components

- | | |
|--|------------|
| 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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 11/10/2004 (337935)
 - 2 10/16/2006 (511468)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BEST TEXAN, INC. DBA 105 FOOD
MART
RN102350949**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2006-1881-PST-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Best Texan, Inc. dba 105 Food Mart ("Best Texan") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Best Texan appear before the Commission and together stipulate that:

1. Best Texan owns and operates a convenience store with retail sales of gasoline at 690 Highway 105 West in Sour Lake, Hardin County, Texas (the "Station").
2. Best Texan's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Best Texan agree that the Commission has jurisdiction to enter this Agreed Order, and that Best Texan is subject to the Commission's jurisdiction.
4. Best Texan received notice of the violations alleged in Section II ("Allegations") on or about October 23, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Best Texan of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Eight Hundred Fifty Dollars (\$5,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Best Texan has paid One Hundred Ninety-Five Dollars (\$195) of the administrative penalty and One Thousand One Hundred Seventy Dollars (\$1,170) is deferred contingent upon Best Texan's timely and satisfactory compliance with all the terms of this Agreed Order. If Best Texan fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Best Texan to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Four Hundred Eighty-Five Dollars (\$4,485) of the administrative penalty shall be payable in 23 monthly payments of One Hundred Ninety-Five Dollars (\$195) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Best Texan fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Best Texan to meet the payment schedule of this Agreed Order constitutes the failure by Best Texan to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Best Texan have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Best Texan has implemented the following corrective measures at the Station:
 - a. Began conducting bi-monthly inspection of the rectifier and other components of the cathodic protection system on September 15, 2006;
 - b. Began maintaining UST records on September 15, 2006;
 - c. Submitted a completed UST registration and obtained a valid, current delivery certificate on September 6, 2006;
 - d. Began conducting water level measurements for all USTs on September 15, 2006;
 - e. Began maintaining all Stage II records at the Station on September 15, 2006; and
 - f. Replaced the regular unleaded hose and adjusted the length of all hoses on September 15, 2006

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Best Texan has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, Best Texan is alleged to have:

1. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on September 5, 2006.
2. Failed to have required UST records maintained, readily accessible and available for inspection upon request by a representative of the TCEQ, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on September 5, 2006.
3. Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii), as documented during an investigation conducted on September 5, 2006. Specifically, the delivery certificate expired on June 30, 2006.
4. Failed to measure any water level in the bottom of the tanks to the nearest 1/8 inch at least once a month, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(IV) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on September 5, 2006. Specifically, tank water levels were not being gauged.
5. Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 5, 2006. Specifically, Stage II test results, employee training, daily and monthly inspection records and a copy of the California Air Resources Board (CARB) Executive Order were not available for review.
6. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that

would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and 115.242(3)(L) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 5, 2006. Specifically, the regular unleaded hose had several large holes and was splitting apart. Also, two regular and two super unleaded hoses were in contact with the ground more than six inches.

III. DENIALS

Best Texan generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Best Texan pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Best Texan's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Best Texan, Inc. dba 105 Food Mart, Docket No. 2006-1881-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Best Texan. Best Texan is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. If Best Texan fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Best Texan's failure to comply is not a violation of this Agreed Order. Best Texan shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Best Texan shall notify the Executive Director within seven days after Best Texan becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Best Texan shall be made in writing to the Executive Director. Extensions are not effective until Best Texan receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Best Texan in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Best Texan, or three days after the date on which the Commission mails notice of the Order to Best Texan, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Best Texan, Inc. dba 105 Food Mart
DOCKET NO. 2006-1881-PST-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

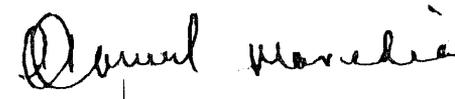
8/27/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

8/7/07
Date

HAMID MAREEDIA
Name (Printed or typed)
Authorized Representative of
Best Texan, Inc. dba 105 Food Mart

PRESIDENT
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

