

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2004-1162-PST-E TCEQ ID: RN102452109 CASE NO.: 17991**  
**RESPONDENT NAME: LUIS M. TREVINO DBA WOLF CAR CARE**

**ORDER TYPE:**

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

**SITE WHERE VIOLATION(S) OCCURRED:** 104 S. Colorado Oak Street, Pearsall, Frio County

**TYPE OF OPERATION:** Auto repair shop and service station with retail sales of gasoline

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** A complaint has been received, but the complainant has not indicated that they wish to protest this action or speak at Agenda.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on January 15, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**TCEQ Enforcement Coordinator:** Mr. Sandy VanCleave, Enforcement Division, Section III, MC 169

**TCEQ Regional Contact:** Mr. Henry Karnei, Jr., San Antonio Regional Office, MC R-13

**Respondent:** Mr. Luis M. Trevino, 1221 W. Comal, Pearsall, Texas 78061

**Respondent's Attorney:** Mr. Manuel Montez, Law Offices of Montez & Patterson, 851 Culebra, San Antonio, Texas 78201

CHIEF CLERKS OFFICE

777 JAN 17 PM 4:28

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**RESPONDENT'S NAME: LUIS M. TREVINO DBA WOLF CAR CARE**  
**DOCKET NO.: 2004-1162-PST-E**

**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: January 12, 2004</p> <p>Date(s) of Investigation(s) Relating to this Case: February 11, 2004 and June 7, 2004</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: April 22, 2004 (NOV) and June 22, 2004 (NOE)</p> <p><b>Background Facts:</b>  The EDPRP was filed on February 15, 2005. The respondent filed an Answer to the EDPRP on March 3, 2005. A SOAH preliminary hearing was held on November 3, 2005. Litigation mailed a proposed Agreed Order to the Respondent on May 15, 2006. On September 28, 2006, Litigation received a signed Agreed Order.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST</b></p> <p>1) Failed to provide all required records for USTs and failing to register all USTs. Specifically, during the February 11, 2004 and June 7, 2004 investigations, there were no petroleum storage tank related documents on site for review and one UST was not registered [30 TEX. ADMIN. CODE §§ 334.10(b)(2) and 334.7(a)(1)].</p> <p>2) Failed to permanently remove from service UST system that was not brought into timely compliance with upgrade requirements no later than 60 days after the prescribed implementation date of December 22, 1998. Specifically, during the February 11, 2004 and June 7, 2004 investigations, the investigator documented that the six USTs that did not have the required upgrades were not permanently removed from service [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p> <p>3) Failed to submit to the TCEQ the required notifications prior to the removal of two USTs [30 TEX. ADMIN. CODE § 334.6(a)(2) and (b)(2) and (b)(2)(C)].</p>	<p><b>Initial Calculated Penalty:</b> \$11,400</p> <p><b>Total Assessed:</b> \$9,120*</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b> \$370 / \$8,750  The Respondent has paid \$370 of the administrative penalty. The remaining amount of \$8,750 of the administrative penalty shall be payable in 35 monthly payments of \$250 each.</p> <p><b>Site Compliance History Classification:</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 1, 2002</p> <p><b>*Explanation for Reduction in Penalty:</b> The proposed penalty was reduced in consideration of litigation risk.</p>	<p><b>Ordering Provision(s)</b></p> <p>1) Within 10 days:</p> <p>a) Begin maintaining copies of all required records pertaining to the UST system in a secure location on the premises of the UST Station and ensure that all records are immediately available for inspection upon request for Commission personnel.</p> <p>b) submit an amended registration to indicate the current operational status of the UST system (removed from Ground).</p> <p>c) Determine whether or not any prior release of a stored regulated substance occurred from the UST system.</p> <p>2) Within 30 days:</p> <p>a) Permanently remove the UST system (including the used oil UST) from service; or</p> <p>b) return the UST system to service.</p> <p>c) Install and implement a release detection method.</p> <p>d) Install and implement a corrosion protection method.</p> <p>e) Provide adequate spill and overflow prevention equipment for the used oil UST.</p> <p>f) Demonstrate financial assurance for the UST system.</p> <p>3) Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

**RESPONDENT'S NAME: LUIS M. TREVINO DBA WOLF CAR CARE**  
**DOCKET NO.: 2004-1162-PST-E**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4) Failed to remove a UST under the direct supervision of agency personnel or a licensed on-site supervisor. Specifically, on January 12, 2004, an anonymous person informed the TCEQ San Antonio Regional Office that USTs were removed from the site on January 11, 2004. During the February 11, 2004, investigation, the investigator documented that one UST appeared to have been removed from the ground. There was evidence that pavement had been removed from an area west of the south dispenser island, near the northeast corner of Oak and Colorado Streets. Additionally, during the June 7, 2004 investigation, the tenant who has been renting the property from the Respondent since 1987 stated that his business had been interrupted sometime in December 2003 by tank removal activities at the Station [30 TEX. ADMIN. CODE § 334.55(b)(2)].</p> <p>5) Failed to conduct release detection at a frequency of at least once per month (not to exceed 35 days) and failed to provide adequate spill and overflow prevention equipment for the used oil UST. Specifically, during the June 7, 2004 investigation, the investigator documented that the tenant of the Station stated that a UST with a capacity of 300 gallons was used to store used oil and that no method of release detection was being conducted on the UST [30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A), 334.51(b) and TEX. WATER CODE § 26.3475(c)(1) and (c)(2)].</p> <p>6) Failed to provide corrosion protection for the USTs. Specifically, during the June 7, 2004 investigation, it was documented that there was no evidence of a rectifier at the Station to show evidence of corrosion protection using an impressed current system and no evidence exists that shows sacrificial anodes were attached to the UST components for corrosion protection or that the tanks were internally lined to protect against corrosion [30 TEX. ADMIN. CODE §§ 334.49(a), 334.54(c)(1) and TEX. WATER CODE § 26.3475(d)].</p> <p>7) 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. Specifically, during the June 7, 2004 investigation, it was documented that one active used oil UST did not have financial assurance [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>8) Failed to provide adequate spill and overflow prevention equipment for the used oil UST [30 TEX. ADMIN. CODE § 334.51(b) and TEX. WATER CODE § 26.3475(c)(2)].</p>		



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 17, 2004

**DATES**

PCW  Screening  Priority Due  EPA Due

**RESPONDENT/FACILITY INFORMATION**

Respondent   
 Reg. Ent. Ref. No.   
 Additional ID No(s)   
 Facility/Site Region  Major/Minor Source

**CASE INFORMATION**

Enf./Case ID No.  No. of Violations   
 Docket No.  Order Type   
 Case Priority  Inf. Coordinator   
 Media Program(s)  EC's Team   
 Multi-Media   
 Admin. Penalty \$ Limit Minimum  Maximum

## Penalty Calculation Section

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

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Subtotals 2, 3, & 7

Notes

**Culpability**   Subtotal 4

Notes

**Good Faith Effort to Comply**  Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<i>(mark with a small x)</i>

Notes

**Economic Benefit**  Subtotal 6

Total EB Amounts	<input type="text" value="\$12,303"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$74,700"/>	

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

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

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

**Screening Date** 28-Jul-2004

**Docket No.** 2004-1162-PST-E

**PCW**

**Respondent** Luis M. Trevino dba Wolf Car Care

*Policy Revision 2 (September 2002)*

**Case ID No.** 17991

*PCW Revision May 17, 2004*

**Reg. Ent. Reference No.** RN102452109

**Additional ID No(s).** Petroleum Storage Tank (PST) Facility ID No. 6507

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Sandy VanCleave

**Site Address** 104 S. Colorado Oak Street, Frio County, Pearsall Texas

**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 <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</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	<i>Please Enter Yes or No</i> 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)** 5%

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

No <

**Adjustment Percentage (Subtotal 3)** 0%

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

High Performer <

**Adjustment Percentage (Subtotal 7)** -10%

>> **Compliance History Summary**

**Compliance History Notes** Reduction due to high performer classification.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** -5%

Screening Date 28-Jul-2004

Docket No. 2004-1162-PST-E

PCW

Respondent Luis M. Trevino dba Wolf Car Care

Policy Revision 2 (September 2002)

Case ID No. 17991

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN102452109

Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

30 Tex. Admin. Code §§ 334.10(b)(2), 334.7(a)(1), 334.6(a)(2) and (b)(2) and (b)(2)(C)
Failure to provide all required records for underground storage tanks (USTs) including but not limited to the following: All documents related to the USTs, updated registration on all USTs and required records pertaining to the removal of two USTs, as documented in an investigation conducted on February 11, 2004.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	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="checkbox"/>

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 Luis M. Trevino dba Wolf Car Care  
 Case ID No. 17991  
 Reg. Ent. Reference No. RN102452109  
 Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507  
 Media [Statute] 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
<b>Delayed Costs</b>							
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	11-Feb-2004	01-Feb-2007	3.0	\$15	n/a	\$15
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 all required records for USTs and register two USTs. 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)						
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

TOTAL

Screening Date 28-Jul-2004

Docket No. 2004-1162-PST-E

PCW

Respondent Luis M. Trevino dba Wolf Car Care

Policy Revision 2 (September 2002)

Case ID No. 17991

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN102452109

Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input checked="" type="checkbox"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

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 Luis M. Trevino dba Wolf Car Care  
 Case ID No. 17991  
 Reg. Ent. Reference No. RN102452109  
 Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507  
 Media [Statute] 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
<b>Delayed Costs</b>							
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)	\$50,000	11-Feb-2004	01-Mar-2007	3.1	\$7,630	n/a	\$7,630

Notes for DELAYED costs: Estimate cost to permanently remove six USTs from service. Date required is the initial investigation date when the violation was originally documented 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				0.0	\$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 **\$50,000** TOTAL **\$7,630**

Screening Date 28-Jul-2004

Docket No. 2004-1162-PST-E

PCW

Respondent Luis M. Trevino dba Wolf Car Care

Policy Revision 2 (September 2002)

Case ID No. 17991

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN102452109

Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to remove a UST under the direct supervision of agency personnel or a licensed on-site supervisor. Specifically, on January 12, 2004, an anonymous person telephoned the TCEQ San Antonio Regional Office and related that USTs were removed from the site on January 11, 2004. During the February 11, 2004 investigation, it was documented that one UST appeared to have been removed from the ground. There was evidence that pavement had been removed from an area west of the south dispenser island, near the northeast corner of Oak and Colorado Streets. Additionally, during the June 7, 2004, follow-up investigation, the tenant who has been renting the property from the Respondent since 1987 stated that his business had been interrupted sometime in December 2003 by tank removal activities at the site.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

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 the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	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="checkbox"/>

Violation Base Penalty

One single event is recommended.

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 Luis M. Trevino dba Wolf Car Care  
 Case ID No. 17991  
 Reg. Ent. Reference No. RN102452109  
 Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507  
 Media [Statute] 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
<b>Delayed Costs</b>							
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	\$12,000	11-Jan-2004	01-Mar-2007	3.1	\$1,882	n/a	\$1,882
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost for site assessment and tank disposal. Date required is the start date of the removal of the UST. The final date is the estimated date a licensed contractor submits a Release Determination Report.

Item Description	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 **\$12,000** TOTAL **\$1,882**

Screening Date 28-Jul-2004

Docket No. 2004-1162-PST-E

PCW

Respondent Luis M. Trevino dba Wolf Car Care

Policy Revision 2 (September 2002)

Case ID No. 17991

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN102452109

Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

30 Tex. Admin. Code §§ 334.50(b)(1)(A) and 334.51(b) and Tex. Water Code §§ 26.3475(c)(1) and 26.3475(c)(2)

Failure to conduct release detection at a frequency of a least once per month (not to exceed 35 days) and failed to provide adequate spill and overflow prevention equipment for the used oil UST. Specifically, during the June 7, 2004, follow-up investigation, it was documented that the tenant of the Facility stated that a UST with a capacity of 300 gallons was used to store used oil and that no method of release detection was being conducted on the UST.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Failure to conduct release detection for the UST system could result in undetected releases that would expose human health and the environment to significant amounts of pollutants which would exceed levels that are protective of human and environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended for the time frame from the date of the follow-up investigation, June 7, 2004, to the screening date, July 28, 2004, to make the penalty commensurate with the situation.

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 Luis M. Trevino dba Wolf Car Care  
 Case ID No. 17991  
 Reg. Ent. Reference No. RN102452109  
 Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507  
 Media [Statute] 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
<b>Delayed Costs</b>							
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)	\$1,500	07-Jun-2004	01-Mar-2007	2.7	\$205	n/a	\$205

Notes for DELAYED costs: Estimated cost to perform a method of release detection on the UST system or permanently remove the UST from service. Date required is the follow-up investigation date and the final date is the estimated date of compliance.

Item Description	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  TOTAL

Screening Date 28-Jul-2004 Docket No. 2004-1162-PST-E PCW

Respondent Luis M. Trevino dba Wolf Car Care Policy Revision 2 (September 2002)

Case ID No. 17991 PCW Revision May 17, 2004

Reg. Ent. Reference No. RN102452109

Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number 5

Primary Rule Cite(s)

30 Tex. Admin. Code §§ 334.49(a), 334.54(c)(1) and Tex. Water Code § 26.3475(d)

Secondary Rule Cite(s)

Violation Description

Failed to provide corrosion protection for the USTs. Specifically, during the June 7, 2004, follow-up investigation, it was documented that there was no evidence of a rectifier at the site to show evidence of corrosion protection using an impressed current system and no evidence exists that shows sacrificial anodes were attached to the UST components for corrosion protection or that the tanks were internally lined to protect against corrosion.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential	X			

>> Programmatic Matrix

		Major	Moderate	Minor	
Falsification					Percent

Matrix Notes

Failure to install a corrosion protection system could result in undetected releases that would expose human health and the environment to significant amounts of pollutants which would exceed levels that are protective of human and environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
single event		

Violation Base Penalty \$2,500

One quarterly event is recommended for the time frame from the date of the follow-up investigation, June 7, 2004, to the screening date, July 28, 2004, to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,912

Violation Final Penalty Total \$2,375

This violation Final Assessed Penalty (adjusted for limits) \$2,375

### Economic Benefit Worksheet

Respondent Luis M. Trevino dba Wolf Car Care  
 Case ID No. 17991  
 Reg. Ent. Reference No. RN102452109  
 Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment	\$10,000	07-Jun-2004	01-Mar-2007	2.7	\$91	\$1,821	\$1,912
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 equip the UST system with a corrosion protection system. Date required is the inspection date when the violation was originally documented 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				0.0	\$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 **\$10,000** TOTAL **\$1,912**

**Screening Date** 28-Jul-2004 **Docket No.** 2004-1162-PST-E **PCW**  
**Respondent** Luis M. Trevino dba Wolf Car Care *Policy Revision 2 (September 2002)*  
**Case ID No.** 17991 *PCW Revision May 17, 2004*

**Reg. Ent. Reference No.** RN102452109  
**Additional ID No(s).** Petroleum Storage Tank (PST) Facility ID No. 6507  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Sandy VanCleave

**Violation Number**

**Primary Rule Cite(s)**

**Secondary Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

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

>> **Programmatic Matrix**

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

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

<i>mark only one use a small 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="checkbox"/>	

**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 Luis M. Trevino dba Wolf Car Care  
 Case ID No. 17991  
 Reg. Ent. Reference No. RN102452109  
 Additional ID No(s). Petroleum Storage Tank (PST) Facility ID No. 6507  
 Media [Statute] Petroleum Storage Tank  
 Violation No. 6

Percent Interest 5.0  
 Years of Depreciation 15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.0	\$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]	\$600	07-Jun-2003	07-Jun-2004	1.0	\$30	\$600	\$630
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for one used oil UST for the 12 months preceding the date of the investigation/record review to the date of compliance.

Approx. Cost of Compliance **\$600**

**TOTAL \$630**

## Compliance History

Customer/Respondent/Owner-Operator:	CN601188634    TREVINO, LUIS M	Classification: HIGH	Rating: 0.000
Regulated Entity:	RN102452109    WOLF CAR CARE	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	6507
Location:	--- 104 S COLORADO OAK ST, PEARSALL, TX, 78061		Rating Date: 9/1/03 Repeat Violator: NO
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	August 19, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 19, 1999 to August 19, 2004		

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

Name: Sandy VanCleave Phone: \_\_\_\_\_

### 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 | 11/15/1999 | (54023)  |  |
| 2 | 07/19/2004 | (281688) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 04/22/2004      (268851)
- |                 |  |                          |
|-----------------|--|--------------------------|
| Self Report? NO |  | Classification: Moderate |
| Citation:       | 30 TAC Chapter 334, SubChapter A 334.10(b)(2)[G]   |                          |
|                 | Description: Failure to provide records for underground storage tanks.                                   |                          |
| Self Report? NO |  | Classification: Moderate |
| Citation:       | 30 TAC Chapter 334, SubChapter A 334.7(a)(1)   |                          |
|                 | Description: Failure to register underground storage tanks.  |                          |
| Self Report? NO |  | Classification: Minor    |
| Citation:       | 30 TAC Chapter 334, SubChapter C 334.47(a)(2)  |                          |
|                 | Description: Failure to permanently remove from service any UST that does not have all required upgrades |                          |
| Self Report? NO |  | Classification: Moderate |
| Citation:       | 30 TAC Chapter 334, SubChapter A 334.6[G]  |                          |
|                 | Description: Failure to comply with construction notification requirements                               |                          |
| Self Report? NO |  | Classification: Moderate |
| Citation:       | 30 TAC Chapter 334, SubChapter C 334.55(b)[G]  |                          |
|                 | Description: Failure to comply with permanent-removal-from-service requirements                          |                          |
- 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  
LUIS M. TREVINO DBA WOLF  
CAR CARE  
RN102452109**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2004-1162-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding \_\_\_\_\_ under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Luis M. Trevino dba Wolf Car Care ("Mr. Trevino") represented by Manuel Montez of the law firm of Montez and Patterson, appear before the Commission and together stipulate that:

1. Mr. Trevino owns and operates an auto repair shop and a service station with retail sales of gasoline, including five underground storage tanks ("USTs") at 104 S. Colorado Oak Street, Pearsall, Frio County, Texas (referred to as Wolf Car Care).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Trevino agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Trevino is subject to the Commission's jurisdiction.
4. Mr. Trevino received notice of the violations alleged in Section II ("Allegations") on or about June 22, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Trevino of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of nine thousand one hundred twenty dollars (\$9,120.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Trevino has paid three hundred seventy dollars (\$370.00) of the administrative penalty. The remaining amount of eight thousand seven hundred fifty dollars (\$8,750.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred fifty dollars (\$250.00) 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 Mr. Trevino fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 Mr. Trevino to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Trevino to timely and satisfactorily comply with all of 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 Mr. Trevino have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Mr. Trevino has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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

Mr. Trevino is alleged to have violated the following during an inspection conducted on February 11, 2004 and June 7, 2004, by a TCEQ San Antonio Regional Office investigator :

1. 30 TEX. ADMIN. CODE §§ 334.10(b)(2) and 334.7(a)(1) by failing to provide all required records for USTs and failing to register all USTs. Specifically, during the February 11, 2004 and June 7, 2004 investigations, there were no petroleum storage tank related documents on site for review and one UST was not registered.

2. 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to permanently remove from service UST system that was not brought into timely compliance with upgrade requirements no later than 60 days after the prescribed implementation date of December 22, 1998. Specifically, during the February 11, 2004 and June 7, 2004 investigations, the investigator documented that the six USTs that did not have the required upgrades were not permanently removed from service.
3. 30 TEX. ADMIN. CODE § 334.6(a)(2) and (b)(2) and (b)(2)(C) by failing to submit to the TCEQ the required notifications prior to the removal of two USTs.
4. 30 TEX. ADMIN. CODE § 334.55(b)(2) by failing to remove a UST under the direct supervision of agency personnel or a licensed on-site supervisor. Specifically, on January 12, 2004, an anonymous person informed the TCEQ San Antonio Regional Office that USTs were removed from the site on January 11, 2004. During the February 11, 2004, investigation, the investigator documented that one UST appeared to have been removed from the ground. There was evidence that pavement had been removed from an area west of the south dispenser island, near the northeast corner of Oak and Colorado Streets. Additionally, during the June 7, 2004 investigation, the tenant who has been renting the property from the Respondent since 1987 stated that his business had been interrupted sometime in December 2003 by tank removal activities at the Station.
5. 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A), 334.51(b) and TEX. WATER CODE § 26.3475(c)(1) and (c)(2) by failing to conduct release detection at a frequency of at least once per month (not to exceed 35 days) and failed to provide adequate spill and overflow prevention equipment for the used oil UST. Specifically, during the June 7, 2004 investigation, the investigator documented that the tenant of the Station stated that a UST with a capacity of 300 gallons was used to store used oil and that no method of release detection was being conducted on the UST.
6. 30 TEX. ADMIN. CODE §§ 334.49(a), 334.54(c)(1) and TEX. WATER CODE § 26.3475(d) by failing to provide corrosion protection for the USTs. Specifically, during the June 7, 2004 investigation, it was documented that there was no evidence of a rectifier at the Station to show evidence of corrosion protection using an impressed current system and no evidence exists that shows sacrificial anodes were attached to the UST components for corrosion protection or that the tanks were internally lined to protect against corrosion.
7. 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing 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. Specifically, during the June 7, 2004 investigation, it was documented that one active used oil UST did not have financial assurance.

8. 30 TEX. ADMIN 334.51(b) and TEX. WATER CODE § 26.3475(c)(2) by failing to provide adequate spill and overflow prevention equipment for the used oil UST.

### III. DENIALS

Mr. Trevino generally denies each allegation in Section II (“Allegations”).

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Trevino pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Trevino 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Luis M. Trevino dba Wolf Car Care, Docket No. 2004-1162-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. Mr. Trevino shall undertake the following technical requirements:
  - a. Within 10 days after the effective date of this Agreed Order:
    - i. Begin maintaining copies of all required records pertaining to the UST system in a secure location on the premises of the UST Station and ensure that all records are immediately available for inspection upon request by Commission personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10 (relating to Reporting and Record keeping);
    - ii. Submit an amended registration to indicate the current operational status of the UST system (Removed from Ground), in accordance with 30 TEX. ADMIN. CODE § 334.7 (relating to UST Registration) to:

Petroleum Storage Tank Registration Program (MC-138)  
Texas Natural Resource Conservation Commission  
P. O. Box 13087  
Austin, Texas 78711-3087

- iii. Determine whether or not any prior release of a stored regulated substance occurred from the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.55 (Permanent Removal from Service–Site Assessment).
- b. Within 30 days after the effective date of this Agreed Order:
  - i. Permanently remove the UST system (including the used oil UST) from service, in accordance with the applicable provisions of 30 TEX. ADMIN. CODE § 334.55 (relating to Permanent Removal from Service); **or**
  - ii. Return the UST system to service, in accordance with the requirements in 30 TEX. ADMIN. CODE § 334.54 (relating to Returning UST System to Service);
  - iii. Install and implement a release detection method, in accordance with 30 TEX. ADMIN. CODE § 334.50 (relating to Release Detection);
  - iv. Install and implement a corrosion protection method, in accordance with 30 TEX. ADMIN. CODE § 334.49 (relating to Corrosion Protection);
  - v. Provide adequate spill and overflow prevention equipment for the used oil UST, in accordance with 30 TEX. ADMIN. CODE § 334.51 (relating to Spill and Overflow Prevention Control); and
  - vi. Demonstrate financial assurance for the UST system, in accordance with 30 TEX. ADMIN. CODE § 37.815 (relating to Financial Assurance).
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a and 2.b.

The certification shall be notarized by a State of Texas Notary Public and 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 certification shall be submitted to:

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

with a copy to:

Mr. Henry Karnei, Jr., Manager  
Waste Section  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Rd.  
San Antonio, Texas 78233-3087

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Trevino. Mr. Trevino 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.
4. If Mr. Trevino 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, Mr. Trevino's failure to comply is not a violation of this Agreed Order. Mr. Trevino shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Trevino shall notify the Executive Director within seven days after Mr. Trevino becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 Mr. Trevino shall be made in writing to the Executive Director. Extensions are not effective until Mr. Trevino receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Trevino 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Trevino, or three days after the date on which the Commission mails notice of the Order to Mr. Trevino, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Luis M. Trevino dba Wolf Car Care  
TCEQ Docket No. 2004-1162-PST-E  
Page 8

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*[Handwritten Signature]*

For the Executive Director

*1/16/07*

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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.

*[Handwritten Signature]*  
Signature

*9-28-06*  
Date

*Luis M. Trevino*  
Name (Printed or typed)

*owner*  
Title

Authorized representative of  
Luis M. Trevino dba Wolf Car Care