

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2004-1405-PST-E TCEQ ID NO.: RN102452463 ENF CASE NO.: 19295

RESPONDENT NAME: SILWAD, INC. DBA CIRCLE M FOOD STORE

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

SITE WHERE VIOLATION(S) OCCURRED: 1025 South 18th Street, Waco, McLennan County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

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

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 23, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Section II, MC R-4, (817) 588-5886

TCEQ Regional Contact: Mr. Frank Bursleson, Waco Regional Office, MC R-9, (254) 761-3007

Respondent: Mr. Hussein M. Odeh, President, Silwad, Inc. dba Circle M Food Store, 1025 South 18th Street, Waco, Texas 76706

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: July 16, 2004 and August 24, 2004</p> <p>Date of NOE Relating to this Case: July 28, 2004</p> <p>Background Facts: The EDPRP was filed on March 23, 2006. The Respondent answered and requested a hearing at SOAH. On the eve of the SOAH Evidentiary Hearing, the case settled.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST</p> <p>1) Failed to have a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances including the tanks, piping and other ancillary [30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), 334.50(b)(2) and 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) and 26.3475(c)(1)].</p> <p>2) Failed to have corrosion protection on the UST system [30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d)].</p> <p>3) Failed to conduct inventory control on all USTs [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>4) Failed to number all tanks according to the registration self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>5) Failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p>Total Assessed: \$13,375</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$2,375 / \$11,000</p> <p>The Respondent has paid \$2,375 of the administrative penalty. The remaining amount of \$11,000 shall be payable in 11 monthly payments of \$1,000 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" 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>Ordering Provisions</p> <p>The Respondent shall undertake the following requirements:</p> <p>1) Within 30 days:</p> <p style="padding-left: 40px;">a. Install and implement a release detection system</p> <p style="padding-left: 40px;">b. Equip the UST system with corrosion protection</p> <p style="padding-left: 40px;">c. begin conducting effective manual or automatic inventory control procedures for all USTs,</p> <p style="padding-left: 40px;">d. conduct piping tightness test for the pressurized line,</p> <p style="padding-left: 40px;">e. conduct a test of the line leak detectors for performance and operational reliability;</p> <p style="padding-left: 40px;">f. number all tanks according to the registration self-certification form; and</p> <p style="padding-left: 40px;">g. submit written certification demonstrating current financial assurance for the petroleum USTs.</p> <p>2) Within 45 days, submit notarized, written certification, including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 17, 2004

DATES							
PCW	21-Mar-2006	Screening	16-Aug-2004	Priority Due	14-Nov-2004	EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Silwad Inc. dba Circle M Food Store
Reg. Ent. Ref. No.	RN102452463
Additional ID No(s)	Petroleum Storage Tank Facility ID No:18871
Facility/Site Region	9-Waco <input type="checkbox"/> Major/Minor Source <input type="checkbox"/> Minor Source <input checked="" type="checkbox"/>

CASE INFORMATION			
Enf./Case ID No.	CCEDS Case NO.19295	No. of Violations	5
Docket No.	2004-1405-PST-E	Order Type	1660 without deferral <input checked="" type="checkbox"/>
Case Priority	3	Enf. Coordinator	Cheryl Thompson
Media Program(s)	Petroleum Storage Tank <input checked="" type="checkbox"/>	EC's Team	Enforcement Team 5 <input checked="" type="checkbox"/>
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	7% Enhancement	Subtotals 2, 3, & 7	\$875
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Notes: The respondent received a previous NOV for the same or similar violations on January 30, 2004 and one NOV for violations not same or similar.

Culpability	No <input checked="" type="checkbox"/>	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The respondent has not returned to compliance.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,204	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,290	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$13,375
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,375
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DEFERRAL		Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended due to previous NOV for the same or similar violations.

PAYABLE PENALTY	\$13,375
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Screening Date	16-Aug-2004	Docket No.	2004-1405-PST-E	PCW
Respondent	Silwad Inc. dba Circle M Food Store	Policy Revision 2 (September 2002)		
Case ID No.	CCEDS Case NO.19295	PCW Revision May 17, 2004		
Reg. Ent. Reference No.	RN102452463			
Additional ID No(s)	Petroleum Storage Tank Facility ID No.18871			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Cheryl Thompson			
Site Address	1025 S. 18th St., Waco, Texas 76706			

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	1	2%
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 disclosed)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 7%

>> Repeat Violator (Subtotal 3)

No **Adjustment Percentage (Subtotal 3) 0%**

>> Compliance History Person Classification (Subtotal 7)

Average Performer **Adjustment Percentage (Subtotal 7) 0%**

>> Compliance History Summary

Compliance History Notes The respondent received a previous NOV for the same or similar violations on January 30, 2004 and one NOV for violations not same or similar.

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

Screening Date 16-Aug-2004 **Docket No.** 2004-1405-PST-E **PCW**
Respondent Silwad Inc. dba Circle M Food Store *Policy Revision 2 (September 2002)*
Case ID No. CCEDS Case NO.19295 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN102452463
Additional ID No(s). Petroleum Storage Tank Facility ID No.18871
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Cheryl Thompson

Violation Number
Primary Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(a)(1)(A), 334.50(b)(2) and 334.50(b)(2)(A)(i)(III)
Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and 26.3475(c)(1)
Violation Description Failed to have a release detection method capable of detecting a release from any portion of the Underground Storage Tank (UST) system which contains regulated substances including the tanks, piping and other ancillary equipment. Failed to perform a piping tightness test for the pressurized line at least once per year on the underground storage tank (UST) system and failed to test the line leak detectors at least once per year for performance and operational reliability.

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" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

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

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.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One quarterly event is recommended from the period of July 16, 2004 (date of inspection) to August 16, 2004 (date of screening).

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: Silwad Inc. dba Circle M Food Store
 Case ID No.: CCEDS Case NO.19295
 Reg. Ent. Reference No.: RN102452463
 Additional ID No(s): Petroleum Storage Tank Facility ID No.18871
 Media [Statute]: Petroleum Storage Tank
 Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$2,500	16-Jul-2004	04-Apr-2005	0.7	\$90	n/a	\$90

Notes for DELAYED costs: Estimated cost to provide a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances and estimated cost to perform line leak detectors and tightness tests.

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 \$2,500

TOTAL \$90

Screening Date 16-Aug-2004 **Docket No.** 2004-1405-PST-E **PCW**
Respondent Silwad Inc. dba Circle M Food Store *Policy Revision 2 (September 2002)*
Case ID No. CCEDS Case NO.19295 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN102452463
Additional ID No(s). Petroleum Storage Tank Facility ID No.18871
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Cheryl Thompson

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

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input checked="" type="checkbox"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<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: Silwad Inc. dba Circle M Food Store
 Case ID No.: CCEDS Case NO.19295
 Reg. Ent. Reference No.: RN102452463
 Additional ID No(s): Petroleum Storage Tank Facility ID No.18871
 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
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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)	\$1,500	16-Jul-2004	04-Apr-2005	0.7	\$54	n/a	\$54

Notes for DELAYED costs

Estimated cost to provide corrosion protection on the UST system.

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 \$1,500

TOTAL \$54

Screening Date 16-Aug-2004 **Docket No.** 2004-1405-PST-E **PCW**
Respondent Silwad Inc. dba Circle M Food Store *Policy Revision 2 (September 2002)*
Case ID No. CCEDS Case NO.19295 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN102452463
Additional ID No(s). Petroleum Storage Tank Facility ID No.18871
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Cheryl Thompson

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 checked="" type="checkbox"/>
semiannual	<input type="text"/>
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: Silwad Inc. dba Circle M Food Store
 Case ID No.: CCEDS Case NO.19295
 Reg. Ent. Reference No.: RN102452463
 Additional ID No(s): Petroleum Storage Tank Facility ID No.18871
 Media [Statute]: Petroleum Storage Tank
 Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$300	16-Jul-2004	04-Apr-2005	0.7	\$11	n/a	\$11
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 conduct inventory control.						

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 \$300

TOTAL \$11

Screening Date	16-Aug-2004	Docket No.	2004-1405-PST-E	PCW
Respondent	Silwad Inc. dba Circle M Food Store		Policy Revision 2 (September 2002)	
Case ID No.	CCEDS Case NO.19295		PCW Revision May 17, 2004	
Reg. Ent. Reference No.	RN102452463			
Additional ID No(s)	Petroleum Storage Tank Facility ID No.18871			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Cheryl Thompson			
Violation Number	4			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(C)			
Secondary Rule Cite(s)				
Violation Description	Failed to number all tanks according to the registration self-certification form.			
Base Penalty				\$10,000

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

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential					

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			

Matrix Notes: 100% of the rule requirement was not met.

Adjustment - \$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events: 1

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

Violation Base Penalty \$1,000

One single event is recommended based on the July 16, 2004 inspection date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$1	Violation Final Penalty Total: \$1,070
This violation Final Assessed Penalty (adjusted for limits): \$1,070	

Economic Benefit Worksheet

Respondent: Silwad Inc. dba Circle M Food Store
 Case ID No: CCEDS Case NO.19295
 Reg. Ent. Reference No: RN102452463
 Additional ID No(s): Petroleum Storage Tank Facility ID No.18871
 Media [Statute]: Petroleum Storage Tank
 Violation No: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$20	16-Jul-2004	04-Apr-2005	0.7	\$1	n/a	\$1
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 ensure that all tanks are numbered according to registration/self-registration form.						

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 \$20

TOTAL \$1

6 Screening Date 16-Aug-2004 Docket No. 2004-1405-PST-E PCW
 Respondent Silwad Inc. dba Circle M Food Store Policy Revision 2 (September 2002)
 Case ID No. CCEDS Case NO.19295 PCW Revision May 17, 2004
 Reg. Ent. Reference No. RN102452463
 Additional ID No(s). Petroleum Storage Tank Facility ID No.18871
 Media [Statute] Petroleum Storage Tank
 Enf. Coordinator Cheryl Thompson

Violation Number 5
 Primary Rule Cite(s) 30 TAC § 37.815 (a) and (b)
 Secondary Rule Cite(s)
 Violation Description Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage cause by accidental releases arising from the operation of petroleum USTs.
 Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$9,000
 Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 3
 mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

 Violation Base Penalty \$3,000
 Three single events (one event per tank) are recommended based upon the record review conducted on August 24, 2004.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$2,048	Violation Final Penalty Total \$3,210
This violation Final Assessed Penalty (adjusted for limits) \$3,210	

Economic Benefit Worksheet

Respondent: Silwad Inc. dba Circle M Food Store
 Case ID No.: CCEDS Case NO.19295
 Reg. Ent. Reference No.: RN102452463
 Additional ID No(s): Petroleum Storage Tank Facility ID No.18871
 Media [Statute]: Petroleum Storage Tank
 Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)				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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,950	03-Dec-2002	03-Dec-2003	1.0	\$98	\$1,950	\$2,048
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs Estimated cost to provide financial assurance for three petroleum USTs (\$650 per tank) for one year prior to December 3, 2003 request for financial assurance documentation.							

Approx. Cost of Compliance \$1,950

TOTAL \$2,048

Compliance History

Customer/Respondent/Owner-Operator:	CN600824320 Silwad Inc.	Classification: AVERAGE	Rating: 2.320
Regulated Entity:	RN102452463 CIRCLE M FOOD STORE	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	18871
Location:	1025 S 18TH ST, WACO, TX, 76706	Rating Date: 9/1/03 Repeat Violator: NO	
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	September 01, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 01, 1999 to September 01, 2004		

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

Name: cthompso Phone: (817)588-5886

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 | 02/23/2004 | (282043) |
| 2 | 07/30/2004 | (283002) |
| 3 | 01/30/2004 | (261076) |
| 4 | 03/24/2004 | (266765) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/23/2004 (282043)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]

30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to provide acceptable financial assurance

Date: 01/30/2004 (261076)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]

Description: Failure to have all records available for the investigation.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failure to label all tanks according to the registration/self-certification form.
Failure to label all tanks according to the registration/self-certification form.

- 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 SILWAD, INC.
DBA CIRCLE M FOOD STORE;
RN102452463

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
TCEQ DOCKET NO. 2004-1405-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 Silwad, Inc. dba Circle M Food Store ("Silwad") under the authority of TEX. WATER CODE chs. 7 and 26, and 30 TEX. ADMIN. CODE chs. 70, 37, and 334. The Executive Director of the TCEQ, represented by the Litigation Division, and Silwad, appear before the Commission and together stipulate that:

1. Silwad owns a store which had retail sales of gasoline located at 1025 S. 18th Street, in Waco, McLennan County, Texas (the "Facility").
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 violation of TEX. WATER CODE ch. 26. and the TCEQ rules.
3. The Commission and Silwad agree that the Commission has jurisdiction to enter this Agreed Order, and that Silwad is subject to the Commission's jurisdiction.
4. Silwad received notice of the violations alleged in Section II ("Allegations") on or about July 28, 2004 and November 4, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Silwad of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of thirteen thousand three hundred seventy-five dollars (\$13,375.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Silwad has paid two thousand three hundred seventy-five dollars (\$2,375.00) of the administrative penalty. The remaining amount of eleven thousand dollars (\$11,000.00) of the administrative penalty shall be payable in eleven (11) monthly payments of one thousand dollars (\$1,000.00) 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 Silwad 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 Silwad to meet the payment schedule of this Agreed Order constitutes the failure by Silwad 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 Silwad 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 Silwad has not complied with one or more of the terms or conditions of 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

Silwad is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.50(a)(1)(A), 334.50(b)(2) and 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) and 26.3475(c)(1), by failing to have a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances including the tanks, piping and other ancillary

equipment. Also by failing to perform a piping tightness test for the pressurized line at least once per year for the UST system and failing to test the line leak detectors at least once per year for performance and operational reliability, as documented at the July 16, 2004 investigation.

2. 30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d), by failing to have corrosion protection on the UST system, as documented at the July 16, 2004 investigation.
3. 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct inventory control on all USTs, as documented at the July 16, 2004 investigation.
4. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) for failing to number all tanks according to the registration self-certification form, as documented at the July 16, 2004 investigation.
5. 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, as documented during a record review on August 24, 2004.

III. DENIALS

Silwad generally denies each allegation in Section II.

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Silwad pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Silwad'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 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: Silwad, Inc. dba Circle M Food Store, Docket No. 2005-1405-PST-E" to:

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

2. Silwad shall undertake the following technical requirements:

- a. Within 30 days of the effective date of this Agreed Order, Silwad shall:
- i. Install and implement a release detection system, in accordance with 30 TEX. ADMIN. CODE § 334.50(b)(1)(A);
 - ii. Equip the UST system with corrosion protection, in accordance with 30 TEX. ADMIN CODE § 334.49(a);
 - iii. Begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48(c);
 - iv. Conduct a piping tightness test for the pressurized line, in accordance with 30 TEX. ADMIN. CODE § 334.50(b)(2);
 - v. Conduct a test of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50 (relating to Release Detection);
 - vi. Number all tanks according to the registration self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(C);
 - vii. Submit written certification demonstrating current financial assurance for the petroleum USTs, as required by 30 TEX. ADMIN. CODE § 37.815(a) and (b); and
 - viii. Silwad shall within forty-five (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 Provisions 2.a.i-vii. 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. Donald Wyrick, Manager
Waste Section
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon Silwad. Silwad is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Silwad 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, Silwad's failure to comply is not a violation of this Agreed Order. Silwad shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Silwad shall notify the Executive Director within seven days after Silwad becomes aware of the 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 Silwad shall be made in writing to the Executive Director. Extensions are not effective until Silwad 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 Silwad 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order

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 Silwad, or three days after the date on which the Commission mails notice of the Order to Silwad, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Wangom Perdue

For the Executive Director

9/30/07

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 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 Provision, if any, in this Order and /or my failure to timely pay the penalty amount, may result in:

- A negative impact on the entity's compliance history;
- Greater scrutiny of any permit applications submitted by the entity;
- 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 the entity;
- Automatic referral to the Attorney General's Office of any future enforcement actions against the entity; and
- TCEQ seeking other relief as authorized by law.

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

Hodeh

Signature

1-30-07

Date

Hodeh Hussain Vabeh

Mr. Hussein M. Odeh

President

Title

Authorized representative (Owner) of
Silwad, Inc. dba Circle M Food Store