

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-0547-PST-E TCEQ ID: RN102243151 AND RN104469515 CASE NO.: 24937

RESPONDENT NAME: EVELIO MORALES DBA CASINO GROCERY AND DBA CASINO GROCERY 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Farm-to-Market Road 1021 and FM 2030, Eagle Pass, Maverick County and 2224 Del Rio Blvd., Eagle Pass, Maverick County</p> <p>TYPE OF OPERATION: Convenience stores with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facilities.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 13, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Waste Enforcement Section, MC 128, (512) 239-5690 TCEQ Regional Contact: Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052 Respondent: Mr. Evelio Morales, Owner, Casino Grocery and Casino Grocery 2, 1225 Lance Drive, Eagle Pass, Texas 78852 Respondent's Attorney: Mr. William W. Thompson, III, Grissom & Thompson, L.L.P., 609 West 10th St. Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 1, 2004</p> <p>Date of NOE Relating to this Case: January 29, 2005</p> <p>Background Facts: This case was referred to the Litigation Division on June 8, 2005. After referral to SOAH and extensive negotiation, a signed Order was received on July 7, 2008.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database.</p> <p>Current Compliance Status: The Respondent is not in compliance.</p> <p>PST</p> <p>1. Failed to provide a proper release detection method capable of detecting a release from any portion of the UST system [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>2. Failed to timely renew the delivery certificate by submitting a properly completed UST registration and self certification form at least 30 days before the expiration date of the delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (5)(B)(ii)].</p> <p>3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p>	<p>Total Assessed: \$61,690</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$1,215/\$60,475</p> <p>The Respondent has paid \$1,215 of the administrative penalty. The remaining amount of \$60,475 shall be payable in 59 monthly payments of \$1,025 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 technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days, install or implement a release detection method at the Casino Facility. 2. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 1. <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures in response to this enforcement action:</p> <ol style="list-style-type: none"> 1. The UST system was permanently removed from service at the Casino 2 Facility on May 18, 2005; 2. A completed UST Self-Certification and Registration Form was provided for the Casino Facility to the TCEQ on December 1, 2004; and 3. A valid TCEQ Delivery Certificate was provided for the Casino Facility on December 6, 2004.

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to empty temporarily out of service USTs to less than 2.5 centimeters (1 inch) of product at the deepest point [30 TEX. ADMIN. CODE § 334.54(d)(2)].</p> <p>5. Failed to provide records of required corrosion protection tests, including tests of the cathodic protection system conducted at least every 60 days and tests of the system conducted at least once every three months [30 TEX. ADMIN. CODE § 334.9(e)].</p> <p>6. 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>7. Failed to label the fill pipes according to the registration and self-certification form USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 02, 2005

DATES	Assigned 25-Jan-2005	PCW 01-Jun-2005	Screening 03-Feb-2005	Priority Due 26-Mar-2005	EPA Due <input style="width: 80%;" type="text"/>
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RESPONDENT/FACILITY INFORMATION	
Respondent	Evelio Morales dba Casino Grocery
Reg. Ent. Ref. No.	RN102243151
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 45930
Facility/Site Region	16-Laredo <input style="width: 20px;" type="text"/> Major/Minor Source <input style="width: 20px;" type="text"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	24937	No. of Violations	3
Docket No.	2005-0547-PST-E	Order Type	1660
Case Priority	3	Enf. Coordinator	Thomas Greimel
Media Program(s)	Petroleum Storage Tank	EC's Team	Enforcement Team 2
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 <input style="width: 80%;" type="text" value="\$34,500"/>
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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	2% Enhancement	Subtotals 2, 3, & 7 <input style="width: 80%;" type="text" value="\$690"/>
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Notes

Culpability	No <input style="width: 20px;" type="text"/> 0% Enhancement	Subtotal 4 <input style="width: 80%;" type="text" value="\$0"/>
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Notes

Good Faith Effort to Comply	0% Reduction	Subtotal 5 <input style="width: 80%;" type="text" value="\$0"/>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input style="width: 40px;" type="text"/>	<input style="width: 40px;" type="text"/>
Ordinary	<input style="width: 40px;" type="text"/>	<input style="width: 40px;" type="text"/>
N/A	x	(mark with a small x)

Notes

Economic Benefit	0% Enhancement*	Subtotal 6 <input style="width: 80%;" type="text" value="\$0"/>
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Total EB Amounts	\$138	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$1,600	

SUM OF SUBTOTALS 1-7	Final Subtotal <input style="width: 80%;" type="text" value="\$35,190"/>
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OTHER FACTORS AS JUSTICE MAY REQUIRE <input style="width: 80px;" type="text"/>	Adjustment <input style="width: 80%;" type="text" value="\$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	<input style="width: 80%;" type="text" value="\$35,190"/>
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty <input style="width: 80%;" type="text" value="\$35,190"/>
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DEFERRAL	0% Reduction	Adjustment <input style="width: 80%;" type="text" value="\$0"/>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY	<input style="width: 80%;" type="text" value="\$35,190"/>
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PCW-1

Screening Date 03-Feb-2005	Docket No. 2005-0547-PST-E	PCW
Respondent Evelio Morales dba Casino Grocery		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 24937		<i>PCW Revision March 02, 2005</i>
Reg. Ent. Reference No. RN102243151		
Additional ID No(s). Petroleum Storage Tank Facility ID No. 45930		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Thomas Greimel		
Site Address	Farm-to-Market Road ("FM") 1021 and FM 2030, Maverick County	

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>)	0	0%
	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</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) 2%

>> 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 has received a Notice of Violation letter, dated June 24, 2003, for dissimilar violations.

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

Screening Date 03-Feb-2005

Docket No. 2005-0547-PST-E

PCW

Respondent Evelio Morales dba Casino Grocery

Policy Revision 2 (September 2002)

Case ID No. 24937

PCW Revision March 02, 2005

Reg. Ent. Reference No. RN102243151

Additional ID No(s). Petroleum Storage Tank Facility ID No. 45930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

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

>> Programmatic Matrix

		Major	Moderate	Minor	
Matrix Notes	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	<input type="text" value="Failure to utilize adequate release detection/control could result in undetected releases that could exposed human health and environmental receptors to significant amounts of pollutants which would exceed protective levels."/>				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input 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 Evelio Morales dba Casino Grocery
 Case ID No. 24937
 Reg. Ent. Reference No. RN102243151
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 45930
 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	01-Dec-2004	31-Jan-2006	1.2	\$6	\$117	\$123
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 for upgrades/improvements related to release detection, from the date of this investigation to the estimated date of compliance.

Item	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 **\$123**

Screening Date 03-Feb-2005 **Docket No.** 2005-0547-PST-E **PCW**
Respondent Evelio Morales dba Casino Grocery *Policy Revision 2 (September 2002)*
Case ID No. 24937 *PCW Revision March 02, 2005*
Reg. Ent. Reference No. RN102243151
Additional ID No(s). Petroleum Storage Tank Facility ID No. 45930
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel
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="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 Evelio Morales dba Casino Grocery
 Case ID No. 24937
 Reg. Ent. Reference No. RN102243151
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 45930
 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	01-Oct-2003	31-Dec-2005	2.3	\$1	\$15	\$16
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 costs of completing and submitting an amended self-certification registration to the TCEQ, from the date that the certificate expired to the estimated date of compliance.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Item	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$100**

TOTAL \$16

Screening Date 03-Feb-2005 **Docket No.** 2005-0547-PST-E **PCW**
Respondent Evelio Morales dba Casino Grocery *Policy Revision 2 (September 2002)*
Case ID No. 24937 *PCW Revision March 02, 2005*
Reg. Ent. Reference No. RN102243151
Additional ID No(s). Petroleum Storage Tank Facility ID No. 45930
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

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" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" 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

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 Evelio Morales dba Casino Grocery
Case ID No. 24937
Reg. Ent. Reference No. RN102243151
Additional ID No(s). Petroleum Storage Tank Facility ID No. 45930
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
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 Economic benefit included in Violation No. 2.

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 \$0
TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator: CN601196611 MORALES, EVELIO Classification: AVERAGE Rating: 1.500
Regulated Entity: RN102243151 CASINO GROCERY Classification: AVERAGE Site Rating: 1.50
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 45930
REGISTRATION
Location: FM 1021 & FM 2030, Maverick County Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region: REGION 16 - LAREDO
Date Compliance History Prepared: March 14, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 14, 2000 to March 14, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Brian Lehmkuhle Phone: (512) 239-4482

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? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

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.)

2 06/24/2003 (276936)
4 10/08/2004 (290602)
6 01/24/2005 (345807)

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

Date: 06/24/2003 (276936)
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

- F. Environmental audits.

N/A

CH-1

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



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision March 02, 2005

DATES	Assigned 25-Jan-2005	PCW 01-Jun-2005	Screening 03-Feb-2005	Priority Due 26-Mar-2005	EPA Due <input style="width: 50px;" type="text"/>
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RESPONDENT/FACILITY INFORMATION	
Respondent	Evelio Morales dba Casino Grocery 2
Reg. Ent. Ref. No.	RN104469515
Additional ID No(s).	Petroleum Storage Tank Facility ID No. 14781
Facility/Site Region	16-Laredo <input style="width: 20px;" type="text"/>
Major/Minor Source	Minor Source <input style="width: 20px;" type="text"/>

CASE INFORMATION			
Enf./Case ID No.	24937	No. of Violations	7
Docket No.	2005-0547-PST-E	Order Type	1660 <input style="width: 20px;" type="text"/>
Case Priority	3 <input style="width: 20px;" type="text"/>	Enf. Coordinator	Thomas Greimel
Media Program(s)	Petroleum Storage Tank <input style="width: 20px;" type="text"/>	EC's Team	Enforcement Team 2 <input style="width: 20px;" type="text"/>
Multi-Media	<input style="width: 50px;" type="text"/>		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

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 0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

Before NOV NOV to EDRP/Settlement Offer

Extraordinary	<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>
Ordinary	<input style="width: 50px;" type="text"/>	<input style="width: 50px;" type="text"/>
N/A	X	<small>(mark with a small x)</small>

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	\$1,723	
Approx. Cost of Compliance	\$4,200	<small>*Capped at the Total EB \$ Amount</small>

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 0% Reduction Adjustment

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

Notes

PAYABLE PENALTY

PCW-2

Screening Date 03-Feb-2005	Docket No. 2005-0547-PST-E	PCW
Respondent Evelio Morales dba Casino Grocery 2		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 24937		<i>PCW Revision March 02, 2005</i>
Reg. Ent. Reference No. RN104469515		
Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Thomas Greimel		
Site Address	2224 Del Rio Blvd., Eagle Pass, Maverick County	

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>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of 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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	no	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	no	0%
	Participation in a voluntary pollution reduction program	no	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	no	0%

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 03-Feb-2005 **Docket No.** 2005-0547-PST-E **PCW**
Respondent Evelio Morales dba Casino Grocery 2 *Policy Revision 2 (September 2002)*
Case ID No. 24937 *PCW Revision March 02, 2005*
Reg. Ent. Reference No. RN104469515
Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel
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" 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 Evelio Morales dba Casino Grocery 2
 Case ID No. 24937
 Reg. Ent. Reference No. RN104469515
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	19-Nov-2004	31-Dec-2005	1.1	\$4	\$74	\$78
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 of emptying the two USTs, from the reported date when the tanks were taken out of service to 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 03-Feb-2005

Docket No. 2005-0547-PST-E

PCW

Respondent Evelio Morales dba Casino Grocery 2

Policy Revision 2 (September 2002)

Case ID No. 24937

PCW Revision March 02, 2005

Reg. Ent. Reference No. RN104469515

Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

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	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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 Evelio Morales dba Casino Grocery 2
 Case ID No. 24937
 Reg. Ent. Reference No. RN104469515
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
 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
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	\$100	01-Dec-2004	31-Jan-2006	1.2	\$6	\$117	\$123
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

Estimated cost to ensure records of corrosion protection activities are adequately prepared and maintained.

Approx. Cost of Compliance

TOTAL

Screening Date 03-Feb-2005 **Docket No.** 2005-0547-PST-E **PCW**
Respondent Evelio Morales dba Casino Grocery 2 *Policy Revision 2 (September 2002)*
Case ID No. 24937 *PCW Revision March 02, 2005*
Reg. Ent. Reference No. RN104469515
Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel
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
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

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

Percent

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 type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<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 Evelio Morales dba Casino Grocery 2
 Case ID No. 24937
 Reg. Ent. Reference No. RN104469515
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
 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
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]	\$1,300	01-Dec-2003	01-Dec-2004	1.0	\$65	\$1,300	\$1,365
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for two petroleum USTs for the 12 month period prior to the initial investigation date.

Approx. Cost of Compliance **\$1,300**

TOTAL \$1,365

Screening Date 03-Feb-2005

Docket No. 2005-0547-PST-E

PCW

Respondent Evelio Morales dba Casino Grocery 2

Policy Revision 2 (September 2002)

Case ID No. 24937

PCW Revision March 02, 2005

Reg. Ent. Reference No. RN104469515

Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(a)(1)(A)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failure to provide a proper release detection method capable of detecting a release from any portion of the UST system. Specifically, the respondent was not utilizing a valid method of release detection for the out of service UST system at the Facility. Also, the respondent failed to conduct reconciliation of detailed inventory records at least once a month, sufficiently accurate to detect a release which equals or exceeds the sum of 1% of flow through plus 130 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to utilize adequate release detection/control could result in undetected releases that could exposed human health and environmental receptors to significant amounts of pollutants which would exceed protective levels.

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 from the December 1, 2004 investigation date to the February 3, 2005 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$123

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Evelio Morales dba Casino Grocery 2
 Case ID No. 24937
 Reg. Ent. Reference No. RN104469515
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	01-Dec-2004	31-Jan-2006	1.2	\$6	\$117	\$123
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 for upgrades/improvements related to release detection, from the date of this investigation to 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 **\$1,500** TOTAL **\$123**

Screening Date 03-Feb-2005

Docket No. 2005-0547-PST-E

PCW

Respondent Evelio Morales dba Casino Grocery 2

Policy Revision 2 (September 2002)

Case ID No. 24937

PCW Revision March 02, 2005

Reg. Ent. Reference No. RN104469515

Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 334.8(c)(4)(A)(vii) and (5)(B)(ii)

Secondary Rule Cite(s)

Violation Description

Failure to timely renew the delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the respondent failed to renew the delivery certificate by submission of a new UST registration and self-certification form to the agency 30 days before the expiration date of July 31, 2002.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes

100% of the rule is 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

A single event is recommended as documented by the investigation conducted on December 1, 2004.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Evelio Morales dba Casino Grocery 2
 Case ID No. 24937
 Reg. Ent. Reference No. RN104469515
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	01-Aug-2002	31-Dec-2005	3.4	\$1	\$23	\$24
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 costs of completing and submitting an amended self-certification registration to the TCEQ, from the date that the certificate expired to the estimated date of compliance.

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)
Disposal	\$0
Personnel	\$0
Inspection/Reporting/Sampling	\$0
Supplies/equipment	\$0
Financial Assurance [2]	\$0
ONE-TIME avoided costs [3]	\$0
Other (as needed)	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$100** TOTAL **\$24**

Screening Date 03-Feb-2005

Docket No. 2005-0547-PST-E

PCW

Respondent Evelio Morales dba Casino Grocery 2

Policy Revision 2 (September 2002)

Case ID No. 24937

PCW Revision March 02, 2005

Reg. Ent. Reference No. RN104469515

Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

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" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" 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 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 Evelio Morales dba Casino Grocery 2
 Case ID No. 24937
 Reg. Ent. Reference No. RN104469515
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
 Media [Statute] Petroleum Storage Tank
 Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Economic benefit included in Violation No. 5.

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 03-Feb-2005

Docket No. 2005-0547-PST-E

PCW

Respondent Evelio Morales dba Casino Grocery 2

Policy Revision 2 (September 2002)

Case ID No. 24937

PCW Revision March 02, 2005

Reg. Ent. Reference No. RN104469515

Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

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="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 Evelio Morales dba Casino Grocery 2
 Case ID No. 24937
 Reg. Ent. Reference No. RN104469515
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 14781
 Media [Statute] Petroleum Storage Tank
 Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				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)	\$200	01-Dec-2004	31-Dec-2005	1.1	\$11	n/a	\$11

Notes for DELAYED costs: Estimated cost to label the fill lines, from the December 1, 2004 investigation date to 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 **\$200** TOTAL **\$11**

Compliance History

Customer/Respondent/Owner-Operator: CN601196611, MORALES, EVELIO Classification: AVERAGE Rating: 1.500
Regulated Entity: RN104469515 CASINO GROCERY 2 Classification: AVERAGE BY DEFAULT Site Rating: 3.01
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 14781
REGISTRATION
Location: 2224 DEL RIO BLVD, EAGLE PASS, TX, 78852 Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region: REGION 16 - LAREDO
Date Compliance History Prepared: March 14, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 14, 2000 to March 14, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Brian Lehmkuhle Phone: (512) 239-4482

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? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

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.)

2 01/24/2005 (345809)

N/A

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

CH-2

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
EVELIO MORALES DBA CASINO
GROCERY AND DBA CASINO
GROCERY 2,
RN102243151 AND RN104469515

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-0547-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 Evelio Morales dba Casino Grocery and dba Casino Grocery 2 ("Mr. Morales") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Morales, represented by William W. Thompson, III of the law firm of Grissom & Thompson, L.L.P., appear before the Commission and together stipulate that:

1. Mr. Morales owns and operates two convenience stores with retail sales of gasoline known as Casino Grocery and Casino Grocery 2. Casino Grocery is located at Farm-to-Market Road ("FM") 1021 and FM 2030, Eagle Pass, Maverick County, Texas (the "Casino Facility"). Casino Grocery 2 is located at 2224 Del Rio Boulevard, Eagle Pass, Maverick County, Texas (the "Casino 2 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 violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Morales agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Morales is subject to the Commission's jurisdiction.
4. Mr. Morales received notice of the violations alleged in Section II ("Allegations") on or about January 29, 2005.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Morales of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of sixty-one thousand six hundred ninety dollars (\$61,690.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Morales has paid one thousand two hundred fifteen dollars (\$1,215.00) of the administrative penalty. The remaining amount of sixty thousand four hundred seventy-five dollars (\$60,475.00) of the administrative penalty shall be payable in fifty-nine monthly payments of one thousand twenty-five dollars (\$1,025.00) 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. Morales 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. Morales to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Morales 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. Morales have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Morales has implemented the following corrective measures in response to this enforcement action:
 - a. The UST system was permanently removed from service at the Casino 2 Facility on May 18, 2005;
 - b. A completed UST Self-Certification and Registration Form was provided for the Casino Facility to the TCEQ signed on December 1, 2004; and
 - c. A valid TCEQ Delivery Certificate was provided for the Casino Facility on December 6, 2004.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Morales has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Morales is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1) by failing to provide a proper release detection method capable of detecting a release from any portion of the UST system at the Casino Facility and the Casino 2 Facility as documented on December 1, 2004.
2. 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (5)(B)(ii) by failing to timely renew the delivery certificate by submitting a properly completed UST registration and self certification form at least 30 days before the expiration date of the delivery certificate at the Casino Facility and the Casino 2 Facility as documented on December 1, 2004.
3. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into USTs at the Casino Facility and the Casino 2 Facility as documented on December 1, 2004.
4. 30 TEX. ADMIN. CODE § 334.54(d)(2) by failing to empty temporarily out of service USTs to less than 2.5 centimeters (1 inch) of product at the deepest point at the Casino 2 Facility as documented on December 1, 2004.
5. 30 TEX. ADMIN. CODE § 334.49(e) by failing to provide records of required corrosion protection tests, including tests of the cathodic protection system conducted at least every 60 days and tests of the system conducted at least once every three years at the Casino 2 Facility as documented on December 1, 2004.
6. 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing 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 at the Casino 2 Facility as documented on December 1, 2004.

7. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to label the fill pipes according to the registration and self-certification form at the Casino 2 Facility as documented on December 1, 2004.

III. DENIALS

Mr. Morales generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Morales pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Morales'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: Evelio Morales dba Casino Grocery and dba Casino Grocery 2, 2005-0547-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. Morales shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Mr. Morales shall install or implement a release detection method at the Casino Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50 (relating to Release Detection).
 - b. Within 45 days after the effective date of this Agreed Order, Mr. Morales shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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

and

Ms. Rose Luna-Pirtle, Manager
Waste Section
Laredo Regional Office
Texas Commission on Environmental Quality
707 East Calton Road, Suite 340
Laredo, Texas 78041-3638

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Morales. Mr. Morales is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Casino Facility and Casino 2 Facility operations referenced in this Agreed Order.
4. If Mr. Morales 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. Morales's failure to comply is not a violation of this Agreed Order. Mr. Morales shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Morales shall notify the Executive Director within seven days after Mr. Morales 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. Morales shall be made in writing to the Executive Director. Extensions are not effective until Mr. Morales 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. Morales 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. Morales, or three days after the date on which the Commission mails notice of the Order to Mr. Morales, 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



10/7/08

For the Executive Director

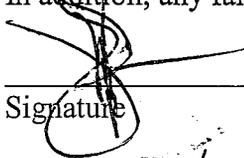
Date

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.



Signature

7-7-08

Date

Evelio Morales

Name (Printed or typed)

owner

Title

Authorized representative of
Evelio Morales dba Casino Grocery
and dba Casino Grocery 2