

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-0893-PST-E TCEQ ID: RN100545078 CASE NO.: 25503

RESPONDENT NAME: JAMES RAMIREZ DBA WEST BEAUREGARD SERVICE CENTER

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: 1624 West Beauregard Avenue, San Angelo, Tom Green County</p> <p>TYPE OF OPERATION: Service station</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 this facility location.</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 December 1, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 169, (512) 239-5717 TCEQ Regional Contact: Mr. Mark Newman, San Angelo Regional Office, MC R-8, (325) 655-9479 Respondent: Mr. James Ramirez, 1366 Fox Hollow, San Angelo, Texas 76905 Respondent's Attorney: Mr. Mark A. Brown, Attorney and Counselor at Law, 121 S. Irving St., San Angelo, Texas 76903</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: March 18, 2005</p> <p>Date of NOE Relating to this Case: April 27, 2005</p> <p>Background Facts: The EDRP was filed on October 11, 2006. The Respondent filed an answer and the matter was referred to SOAH. Settlement was achieved and a signed Agreed Order was received on September 11, 2008.</p> <p>Current Compliance Status: In compliance.</p> <p>PST:</p> <p>1. Failed to test the cathodic protection system at least once every three years for proper operability [30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>2. Failed to conduct an annual line leak detector test for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>3. Failed to obtain a TCEQ delivery certificate by timely and proper submission of a new Registration & Self-Certification form to the TCEQ [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vi)(I) and (c)(5)(B)(i)].</p> <p>4. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting the delivery of a regulated substance into a UST system [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>5. Failed to ensure that permanent tags, labels, or markings were applied or affixed to the immediate area of the UST fill tube [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>6. Failed to securely anchor the shear valve at the base of the gasoline dispenser [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p>	<p>Total Assessed: \$8,100</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: \$225/ \$7,875</p> <p>The Respondent has paid \$225 of the administrative penalty. The remaining amount of \$7,875 of the administrative penalty shall be payable in 35 monthly payments of \$225 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>Corrective Actions Taken</p> <p>The Executive Director recognizes that the Respondent has taken the following corrective actions:</p> <ol style="list-style-type: none"> Contracted with a third party who: <ol style="list-style-type: none"> Completed performance testing on the line leak detectors on October 5, 2004; Completed installing permanent tags to the UST fill tubes on April 11, 2005; Secured the shear valves at the dispensers on May 4, 2005; and Completed performance testing on the cathodic protection system on May 6, 2005. Submitted an updated UST registration to the TCEQ on March 22, 2005, and was issued a current UST delivery certificate.



Policy Revision 2 (September 2002)

Beauregard.wb3
Penalty Calculation Worksheet (PCW)

PCW Revision May 10, 2005

Assigned	02-May-2005	Screening	12-May-2005	EPA Due	
PCW	12-Dec-2005				

RESPONDENT/FACILITY INFORMATION	
Respondent	James Ramirez dba West Beauregard Service Center
Reg. Ent. Ref. No.	RN100545078
Facility/Site Region	8-San Angelo <=
Major/Minor Source	Minor Source <=

CASE INFORMATION			
Enf./Case ID No.	25503	No. of Violations	6
Docket No.	2005-0893-PST-E	Order Type	1660 <=
Media Program(s)	Petroleum Storage Tank <=	Enf. Coordinator	Steven Lopez
Multi-Media		EC's Team	Enforcement Team 8 <=
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 <=| 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 10% Reduction Subtotal 5

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

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	\$518	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,996	

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 Final Assessed Penalty

Beauregard.wb3

Screening Date 12-May-2005

Docket No. 2005-0893-PST-E

PCW

Respondent James Ramirez dba West Beauregard Service Center

Policy Revision 2 (September 2002)

Case ID No. 25503

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN100545078

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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

The Respondent has no prior orders or NOV's.

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

Screening Date 12-May-2005 Beauregard:wb3 Docket No. 2005-0893-PST-E PCW

Respondent James Ramirez dba West Beauregard Service Center Policy Revision 2 (September 2002)
 Case ID No. 25503 .PCW Revision May 10, 2005

Reg. Ent. Reference No. RN100545078

Media [Statute] Petroleum Storage Tank
 Enf. Coordinator Steven Lopez

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

		Harm			
		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 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 James Ramirez dba West Beauregard Service Center
 Case ID No. 25503
 Reg. Ent. Reference No. RN100545078
 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)				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)	\$1,125	18-Mar-2002	06-May-2005	3.1	\$176	n/a	\$176

Notes for DELAYED costs: Estimated cost to test and inspect the cathodic protection system, from the required date until the date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$1,125** TOTAL **\$176**

Screening Date 12-May-2005 Beauregard:wb3 Docket No. 2005-0893-PST-E PCW

Respondent James Ramirez dba West Beauregard Service Center Policy Revision 2 (September 2002)

Case ID No. 25503 PCW Revision May 10, 2005

Reg. Ent. Reference No. RN100545078

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

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	Harm			Percent
	Major	Moderate	Minor	
<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 checked="" type="checkbox"/>
	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 James Ramirez dba West Beauregard Service Center
 Case ID No. 25503
 Reg. Ent. Reference No. RN100545078
 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				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)	\$300	15-Jun-2003	05-Oct-2004	2.0	\$30	\$300	\$330

Notes for AVOIDED costs

Estimated avoided cost for the year 2003 to test line leak detectors, from the required date until the date of compliance.

Approx. Cost of Compliance

TOTAL

Beauregard.wb3
 Screening Date 12-May-2005 Docket No. 2005-0893-PST-E PCW
 Respondent James Ramirez dba West Beauregard Service Center Policy Revision 2 (September 2002)
 Case ID No. 25503 PCW Revision May 10, 2005

Reg. Ent. Reference No. RN100545078
 Media [Statute] Petroleum Storage Tank
 Enf. Coordinator Steven Lopez

Violation Number
 Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vi)(I) and (c)(5)(B)(i)
 Secondary Rule Cite(s)

Violation Description
 The Respondent failed to obtain a Texas Commission on Environmental Quality (TCEQ) delivery certificate by timely and proper submission of a new Registration & Self-Certification form to the TCEQ, as documented during an investigation conducted on March, 18, 2005.

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 James Ramirez dba West Beauregard Service Center

Case ID No. 25503

Reg. Ent. Reference No. RN100545078

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)	\$150	18-Mar-2004	22-Mar-2005	1.0	\$8	n/a	\$8

Notes for DELAYED costs Estimated cost to prepare and submit the UST Registration and Self-Certification form for the 12 month period preceding the investigation.

Avoided Costs		ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance **\$150** TOTAL **\$8**

Screening Date 12-May-2005

Beauregard:wb3

Docket No. 2005-0893-PST-E

PCW

Respondent James Ramirez dba West Beauregard Service Center

Policy Revision 2 (September 2002)

Case ID No. 25503

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN100545078

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i)

Secondary Rule Cite(s) Tex. Water Code § 26.3467(a)

Violation Description

The Respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before the delivery of a regulated substance into a UST system can be accepted, as documented during an investigation conducted on March 18, 2005.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$9,500

Base Penalty Subtotal \$500

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 \$1,500

Three single events are recommended based on the fuel delivery dates of November 17, 2004, January 4, 2005, and January 22, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,350

This violation Final Assessed Penalty (adjusted for limits) \$1,350

Economic Benefit Worksheet

Respondent James Ramirez dba West Beauregard Service Center

Case ID No: 25503

Reg. Ent. Reference No. RN100545078

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)				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: The economic benefit for this violation is included in the economic benefit calculation for violation no. 3

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 12-May-2005

Beauregard.wb3

Docket No. 2005-0893-PST-E

PCW

Respondent James Ramirez dba West Beauregard Service Center

Policy Revision 2 (September 2002)

Case ID No. 25503

PCW Revision May 10, 2005

Reg. Ent. Reference No. RN100545078

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Secondary Rule Cite(s)

Violation Description The Respondent failed to ensure that permanent tags, labels, or markings were applied or affixed to the immediate area of the UST fill tube, as documented during an investigation conducted on March 18, 2005.

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 requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$900

This violation Final Assessed Penalty (adjusted for limits) \$900

Economic Benefit Worksheet

Respondent James Ramirez dba West Beauregard Service Center

Case ID No. 25503

Reg. Ent. Reference No. RN100545078

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)				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)	\$37	18-Mar-2005	11-Apr-2005	0.1	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to have the USTs marked with permanent paint from the investigation date until the date of compliance.

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$37** TOTAL **\$0**

Beauregard.wb3
Screening Date 12-May-2005 **Docket No.** 2005-0893-PST-E **PCW**

Respondent James Ramirez dba West Beauregard Service Center *Policy Revision 2 (September 2002)*
Case ID No. 25503 *PCW Revision May 10, 2005*

Reg. Ent. Reference No. RN100545078
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

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="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

<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

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent James Ramirez dba West Beauregard Service Center
 Case ID No. 25503
 Reg. Ent. Reference No. RN100545078
 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	\$384	18-Mar-2005	04-May-2005	0.1	\$0	\$3	\$3
Bulldings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	Estimated cost to anchor shear valves from the investigation date until the date of compliance.						

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance **\$384** TOTAL **\$3**

Compliance History

Customer/Respondent/Owner-Operator:	CN602708901 RAMIREZ, JAMES	Classification: AVERAGE	Rating: 3.010
Regulated Entity:	RN100545078 WEST BEAUREGARD SERVICE CENTER	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	32996
Location:	1624 W BEAUREGARD AVE, SAN ANGELO, TX, 76901		Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region:	REGION 08 - SAN ANGELO		
Date Compliance History Prepared:	May 02, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 02, 2000 to May 02, 2005		

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

Name: Steven Lopez Phone: 512-239-1896

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> |
| 6. Comments: | |

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 04/27/2005 (378761)

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

N/A

F. Environmental audits.

N/A

Description:

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
JAMES RAMIREZ DBA WEST	§	
BEAUREGARD SERVICE CENTER	§	ENVIRONMENTAL QUALITY
RN100545078		

AGREED ORDER

DOCKET NO. 2005-0893-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 James Ramirez dba West Beauregard Service Center ("Mr. Ramirez") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Ramirez, represented by Mr. Mark Brown, Attorney at Law, appear before the Commission and together stipulate that:

1. Mr. Ramirez owns and operates a service station located at 1624 West Beauregard Avenue in San Angelo, Tom Green 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 violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Ramirez agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Ramirez is subject to the Commission's jurisdiction.
4. Mr. Ramirez received notice of the violations alleged in Section II ("Allegations") on or about May 2, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Ramirez of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of eight thousand one hundred dollars (\$8,100.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Ramirez has paid two hundred twenty-five dollars (\$225.00) of the administrative penalty. The remaining amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred twenty-five dollars (\$225.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Ramirez 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, Mr. Ramirez's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Ramirez 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. Ramirez 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. Ramirez has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. Contracted with a third party who:
 - i. Completed performance testing on the line leak detectors on October 5, 2004;
 - ii. Completed installing permanent tags to the UST fill tubes on April 11, 2005;
 - iii. Secured the shear valves at the dispensers on May 4, 2005; and
 - iv. Completed performance testing on the cathodic protection system on May 6, 2005.
 - b. Submitted an updated UST registration to the TCEQ on March 22, 2005 and was issued a current UST delivery certificate.
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. Ramirez 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. Ramirez is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d) by failing to test the cathodic protection system at least once every three years for proper operability as documented on March 18, 2005.
2. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) by failing to conduct an annual line leak detector test for performance and operational reliability. Specifically, Mr. Ramirez did not conduct an annual test for 2003, as documented on March 18, 2005.
3. 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vi)(I) and (c)(5)(B)(i) by failing to obtain a TCEQ delivery certificate by timely and proper submission of a new Registration & Self-Certification form to the TCEQ, as documented on March 18, 2005.
4. 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 the delivery of a regulated substance into a UST system, as documented on March 18, 2005.
5. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that permanent tags, labels, or markings were applied or affixed to the immediate area of the UST fill tube, as documented on March 18, 2005.
6. 30 TEX. ADMIN. CODE § 334.45(c)(3)(A) by failing to securely anchor the shear valve at the base of the gasoline dispenser, as documented on March 18, 2005.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Ramirez pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Mr. Ramirez'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: James Ramirez dba West Beauregard Service Center, Docket No. 2005-0893-PST-E" to:

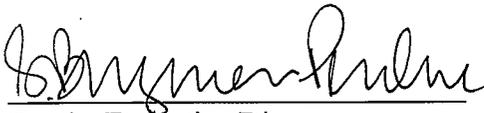
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Mr. Ramirez. Mr. Ramirez 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Ramirez 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.
4. 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.
5. 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. Ramirez, or three days after the date on which the Commission mails notice of the Order to Mr. Ramirez, 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



For the Executive Director

11/3/08

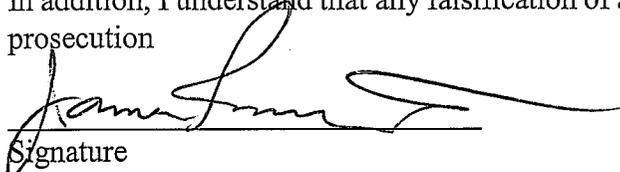
Date

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 Mr. Ramirez's failure to timely pay the penalty amount, may result in:

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

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution


Signature

11 Sept 2008
Date

James Ramirez

Name (Printed or typed)

Owner

Title

Authorized representative of

James Ramirez dba West Beauregard Service Center