

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2005-1188-PST-E TCEQ ID: RN101383073 CASE NO.: 26390
RESPONDENT NAME: ADAM J. WOOD DBA HOOVER VALLEY COUNTRY STORE**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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: Hoover Valley Country Store, 7203 Park Road 4 West, Burnet, Burnet County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</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 17, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p>TCEQ Enforcement Coordinator: Mr. Tel Croston, Water Enforcement Section, MC 219, (512) 239-5717</p> <p>TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 239-2929</p> <p>Respondent: Mr. Adam J. Wood, Operator, Hoover Valley Country Store, 7203 Park Road 4 West, Burnet, Burnet, Texas 78611</p> <p>Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: April 13, 2005</p> <p>Date of NOE Relating to this Case: June 22, 2005</p> <p>Background Facts:</p> <p>An EDPRP was filed on January 4, 2006. The Respondent received notice of the EDPRP on January 5, 2006. The Respondent has not filed an answer or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <p>1. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping and other underground ancillary equipment [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>2. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p>	<p>Total Assessed: \$12,330</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$12,330</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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 Respondent has taken the following action:</p> <ol style="list-style-type: none"> Submitted adequate documentation that the line leak detectors had been tested on May 18, 2005. Submitted an amended registration form to the TCEQ reflecting the current operator status of the UST system on May 2, 2005. Submitted a completed UST registration and self certification form on May 2, 2005. Obtained a valid UST delivery certificate. <p>Ordering Provisions:</p> <p>Immediately, the Respondent's delivery certificate is revoked.</p> <p>The Respondent shall:</p> <ol style="list-style-type: none"> Immediately, begin conducting inventory control procedures for all USTs at the Facility. Within 10 days, send his delivery certificate to the TCEQ. Respondent may apply for a new delivery certificate only after he has complied with all the requirements of the Default Order. Within 30 days, install and implement a release detection method.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to notify the Commission within 30 days from the date of the occurrence of any change or addition to the UST system and failed to submit a completed UST registration and self certification form in a timely manner [30 TEX. ADMIN. CODE §§ 334.7(d)(3) and § 334.8(c)(4)(A)(vi) and (c)(4)(B)].</p> <p>4. Failed to make available a valid, current delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p>		



Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

DATES	Assigned	27-Jun-2005	Screening	05-Jul-2005	EPA Due	
	PCW	14-Dec-2005				

RESPONDENT/FACILITY INFORMATION	
Respondent	Adam J. Wood dba Hoover Valley Country Store
Reg. Ent. Ref. No.	RN101383073
Facility/Site Region	11-Austin
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	26390	No. of Violations	4
Docket No.	2005-1188-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Tel Croston
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$9,000
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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	37% Enhancement	Subtotals 2, 3, & 7	\$3,330
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Notes: Enhancement due to one prior NOV for violations that are not same or similar, and one Findings order and for poor performer compliance history designation.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

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

Notes: The Respondent is not yet in compliance.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$36	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,240	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,330
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$12,330
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,330
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DEFERRAL	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited case.

PAYABLE PENALTY	\$12,330
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Screening Date 05-Jul-2005

Docket No. 2005-1188-PST-E

PCW

Respondent Adam J. Wood dba Hoover Valley Country Store

Policy Revision 2 (September 2002)

Case ID No. 26390

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101383073

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tel Croston

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	1	25%
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) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes Enhancement due to one prior NOV for violations that are not same or similar, and one Findings order and for poor performer compliance history designation

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date	05-Jul-2005	Docket No.	2005-1188-PST-E	PCW
Respondent	Adam J. Wood dba Hoover Valley Country Store		Policy Revision 2 (September 2002)	
Case ID No.	26390	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101383073			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Tel Croston			
Violation Number	1			
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 method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment.			
Base Penalty	\$10,000			

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Matrix Notes	Failing to provide a release detection method could result in a release of significant amount of product which would exceed levels protective of human health and environmental receptors.				

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

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 \$2,500

One quarterly event is recommended based on documentation of the violation during the April 13, 2005 investigation, to the July 5, 2005 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$30"/>	Violation Final Penalty Total <input type="text" value="\$3,425"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,425"/>	

Economic Benefit Worksheet

Respondent: Adam J. Wood dba Hoover Valley Country Store
 Case ID No. 26390
 Reg. Ent. Reference No. RN101383073
 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
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$540	13-Apr-2005	29-Apr-2005	0.0	\$0	\$2	\$2
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	13-Apr-2005	30-May-2006	1.1	\$28	n/a	\$28

Notes for DELAYED costs: Estimated cost to inspect the product lines and line leak detectors. Date required is the date of the investigation. Final Date (April 29, 2005) is the compliance date. Estimated cost to provide a method of release detection for the USTs. Date required is the date of the investigation. Final date (May 30, 2006) is the estimated date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$1,040 TOTAL \$30

Screening Date 05-Jul-2005

Docket No. 2005-1188-PST-E

PCW

Respondent Adam J. Wood dba Hoover Valley Country Store

Policy Revision 2 (September 2002)

Case ID No. 26390

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101383073

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tel Croston

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Failure to conduct inventory control for the USTs may result in the undetected release of pollutants which would exceed levels protective of human health or the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One quarterly event is recommended based on documentation of the violation during the April 13, 2005 investigation, to the July 5, 2005 screening date.

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 Adam J. Wood dba Hoover Valley Country Store
 Case ID No. 26390
 Reg. Ent. Reference No. RN101383073
 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	Economic Benefit	
						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)	\$100	13-Apr-2005	30-May-2006	1.1	\$6	n/a	\$6

Notes for DELAYED costs: Estimated cost of conducting inventory control. Date Required is the investigation date. Final Date is the estimated compliance date.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$100 TOTAL \$6

Screening Date	05-Jul-2005	Docket No.	2005-1188-PST-E	PCW
Respondent	Adam J. Wood dba Hoover Valley Country Store		Policy Revision 2 (September 2002)	
Case ID No.	26390	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101383073			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Tel Croston			
Violation Number	3			
Primary Rule Cite(s)	30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(A)(vi) and 334.8(c)(4)(B)			
Secondary Rule Cite(s)				
Violation Description	Failure to notify the Commission within 30 days from the date of the occurrence of any change or addition to the UST system, and failure to submit to the agency a completed UST registration and self-certification form in a timely manner. Specifically, the Respondent failed to submit an amended registration to reflect the current operator status of the UST system.			
			Base Penalty	\$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification				Percent
		X			
Matrix Notes					100%
					Adjustment
					-\$9,000

Base Penalty Subtotal \$1,000

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 \$1,000

One single event is recommended based on documentation of the violation during the April 13, 2005 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$1,370"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,370"/>	

Economic Benefit Worksheet

Respondent: Adam J. Wood dba Hoover Valley Country Store

Case ID No.: 26390

Reg. Ent. Reference No.: RN101383073

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)	\$100	13-Apr-2005	25-May-2005	0.1	\$1	n/a	\$1

Notes for DELAYED costs: Estimated cost to submit an updated registration and self-certification form. Date required is the investigation date. Final date is the date the registration and self-certification form was updated and submitted to TCEQ.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$100

TOTAL \$1

Screening Date	05-Jul-2005	Docket No.	2005-1188-PST-E	PCW
Respondent	Adam J. Wood dba Hoover Valley Country Store	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	26390	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN101383073			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Tel Croston			
Violation Number	<input type="text" value="4"/>			
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i)"/>			
Secondary Rule Cite(s)	<input type="text" value="Tex. Water Code § 26.3467(a)"/>			
Violation Description	<div style="border: 1px solid black; padding: 5px;"> Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Facility's delivery certificate expired on April 18, 2003, and the delivery manifests from February through April 2005, indicate that the Respondent accepted six fuel deliveries. </div>			
		Base Penalty	<input type="text" value="\$10,000"/>	

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

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	X		

>> **Programmatic Matrix**

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

Matrix Notes

Failure to have a valid, current delivery certificate available for common carriers could expose human health or the environment to insignificant amount of pollutants which would not exceed levels that are protective of human health and environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Six single events (one per fuel drop) are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Adam J. Wood dba Hoover Valley Country Store
Case ID No. 26390
Reg. Ent. Reference No. RN101383073
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
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Delayed Costs

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

Notes for DELAYED costs See 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 \$0

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator: CN602848590 WOOD, ADAM J Classification: POOR Rating: 67.67

Regulated Entity: RN101383073 HOOVER VALLEY COUNTRY STORE Classification: POOR Site Rating: 67.67

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 29701
REGISTRATION

Location: 7203 PARK ROAD 4 W, BURNET, TX, 78611 Rating Date: 9/1/2004 Repeat Violator: NO

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: 07/11/2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 11, 2000 to July 11, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Kent Heath Phone: (512) 239-4575

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? Yes
3. If Yes, who is the current owner? Martin, Gary
4. If Yes, who was/were the prior owner(s)? Parker, Roger
5. When did the change(s) in ownership occur? 02/03/05

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 6/1/2002 ADMINORDER 2000-0636-PST-E
12:00:00AM

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(a)(1)(A)

Description: Failure to have a release detection method capable of detecting a release from any portion of the UST system.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: Failure to conduct reconciliation of detailed inventory control records sufficiently accurate enough to detect a release.

Classification: Moderate

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

Description: Failure to demonstrate the required financial responsibility for taking corrective action and compensating 3rd parties for bodily injury and property damage.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(A)

Description: Failure to have records available for inspection.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to amend the registration to reflect current UST system status and current ownership.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)

Description: Failure to test a line leak detector at least once per yr for performance and operational reliability.

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	06/22/05	(379428)
2	04/07/02	(152010)
3	01/22/04	(260563)
4	11/01/02	(152021)

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

Date: 06/01/2002 152010

Self Report? NO

Classification:
Moderate

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

Description: Failure to demonstrate financial assurance.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ADAM J. WOOD DBA HOOVER
VALLEY COUNTRY STORE;
RN101383073

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-1188-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Adam J. Wood dba Hoover Valley Country Store ("Mr. Wood").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Wood operates a convenience store with retail sales of gasoline at 7203 Park Road 4 West in Burnet, Burnet County, Texas (the "Facility").
2. Mr. Wood's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Wood's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During an inspection on April 13, 2005, a TCEQ Austin Regional Office investigator documented that Mr. Wood:
 - a. failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment.

- b. failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.
 - c. failed to notify the Commission within 30 days from the date of the occurrence of any change or addition to the UST system, and failed to submit to the TCEQ a completed UST registration and self-certification form in a timely manner. Specifically, Mr. Wood failed to submit an amended registration to reflect the current operator status of the UST system.
 - d. failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility.
4. Mr. Wood received notice of the violations on or about June 27, 2005.
5. The Executive Director recognizes that Mr. Wood has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. The line leak detectors passed testing on April 26, 2005; adequate documentation was provided to TCEQ staff on May 18, 2005.
 - b. An amended registration form was submitted to TCEQ staff on May 2, 2005, reflecting the current operator status of the UST system.
 - c. A completed UST registration and self-certification form was submitted to TCEQ staff on May 2, 2005.
 - d. Mr. Wood obtained a valid and current TCEQ delivery certificate, expiring in March 2008.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Adam J. Wood dba Hoover Valley Country Store" (the "EDPRP") in the TCEQ Chief Clerk's office on January 4, 2006.
7. By letter dated January 4, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Wood with notice of the EDPRP. According to the return receipt "green card," Mr. Wood received notice of the EDPRP on January 5, 2006, as evidenced by the signature on the card.

8. More than 20 days have elapsed since Mr. Wood received notice of the EDPRP, provided by the Executive Director. Mr. Wood failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Wood is subject to the jurisdiction of the TCEQ pursuant to the Texas Water Code and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Wood failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment, in violation of 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1).
3. As evidenced by Finding of Fact No. 3.b., Mr. Wood failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
4. As evidenced by Finding of Fact No. 3.c., Mr. Wood failed to notify the Commission within 30 days from the date of the occurrence of any change or addition to the UST system, and failed to submit a completed UST registration and self-certification form in a timely manner, in violation of 30 TEX. ADMIN. CODE §§ 334.7(d)(3), 334.8(c)(4)(A)(vi) and (c)(4)(B). Specifically, Mr. Wood failed to submit an amended registration to reflect the current operator status of the UST system.
5. As evidenced by Finding of Fact No. 3.d., Mr. Wood failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a).
6. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Mr. Wood with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 8, Mr. Wood has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Wood and assess the penalty recommended by the Executive Director.

8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Wood for violations of the Texas Water Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of twelve thousand three hundred thirty dollars (\$12,330.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
11. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Mr. Wood's UST delivery certificate if the Commission finds that good cause exists.
12. Good cause for revocation of Mr. Wood's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6, and 7 and Conclusions of Law Nos. 2, 3, 4, 5, 6, and 7.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Wood is assessed an administrative penalty in the amount of twelve thousand three hundred thirty dollars (\$12,330.00) for violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ. The payment of this administrative penalty and Mr. Wood's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Adam J. Wood dba Hoover Valley Country Store; Docket No. 2005-1188-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. Wood's UST delivery certificate is revoked immediately upon the effective date of this Order. Mr. Wood may submit an application for a new delivery certificate only after Mr. Wood has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Mr. Wood shall send the UST delivery certificate for the Facility to:

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

4. Mr. Wood shall undertake the following technical requirements:
 - a. Immediately upon the effective date of the Commission Order, Mr. Wood shall begin conducting inventory control procedures for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48.
 - b. Within 30 days after the effective date of the Commission Order, Mr. Wood shall install and implement a release detection method, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - c. Mr. Wood shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

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

and

Barry Kalda, Waste Section Manager
Texas Commission on Environmental Quality
Austin Regional Office
1921 Cedar Bend Drive, Suite 150
Austin, Texas 78758-5336

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Mr. Wood. Mr. Wood is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. If Mr. Wood fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Wood's failure to comply is not a violation of this Order. Mr. Wood shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Wood shall notify the Executive Director within seven days after Mr. Wood becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Wood shall be made in writing to the Executive Director. Extensions are not effective until Mr. Wood receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Wood if the Executive Director determines that Mr. Wood has not complied with one or more of the terms or conditions in this Order.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Adam J. Wood dba Hoover Valley Country Store
Docket No. 2005-1188-PST-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BENJAMIN O. THOMPSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Benjamin O. Thompson. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Adam J. Wood dba Hoover Valley Country Store” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 4, 2006.

The EDPRP was sent to Mr. Wood at his last known address on January 4, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Wood received notice of the EDPRP on January 5, 2006, as evidenced by the signature on the card.

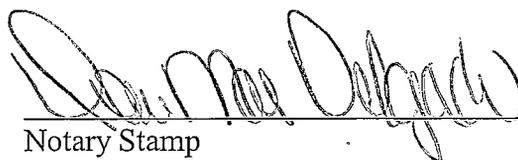
More than 20 days have elapsed since Mr. Wood received notice of the EDPRP. Mr. Wood failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Benjamin O. Thompson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 25th day of September A.D., 2007.



Notary Stamp