

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1771-PST-E    **TCEQ ID:** RN101432763 and RN100528058    **CASE NO.:** 34906  
**RESPONDENT NAME:** MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube and  
 Village Car Wash & Express Lube

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Village Car Wash & Express Lube, 604 Andrews Highway, Midland, and Village East Express Wash & Lube, 2300 North Big Spring Street, Midland, Midland County

**TYPE OF OPERATION:** Car washes with four underground storage tanks ("USTs")

**SMALL BUSINESS:**     Yes     No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on April 14, 2008. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  
**Respondent:** Mr. Blake Cowart, Secretary/Treasurer, Midland Village Car Wash, Inc., P.O. Box 4892, Midland, Texas 79704  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

DOCKET NO.: 2007-1771-PST-E

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 13, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 24, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failed to provide release detection for the piping associated with the USTs. Specifically, the the annual piping tightness tests had not been conducted [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>2) Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 34.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>3) Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4) Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, bimonthly inspections of the impressed current cathodic protection system at the Facility</p>	<p><b>Total Assessed:</b> \$9,250</p> <p><b>Total Deferred:</b> \$1,850  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$7,400</p> <p>RN100528058 and RN101432763</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures:</p> <p>a. As of November 2, 2007, the TCEQ received verification that the Respondent began conducting bimonthly inspections of the rectifier and other system components at the Facility located at 2300 North Big Spring Street in Midland, Texas;</p> <p>b. The TCEQ has received verification that the Respondent successfully conducted the piping tightness and line leak detector tests at the Facilities as of November 2, 2007; and</p> <p>c. The TCEQ has received verification that the Respondent began conducting reconciliation of inventory control records at the Facilities as of November 2, 2007.</p>

**RESPONDENT NAME: MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube  
and Village Car Wash & Express Lube**

**DOCKET NO.:** 2007-1771-PST-E

located at 2300 North Big Spring Street in Midland were not being conducted [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].		
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Additional ID No(s): PST Nos. 40911 and 5774





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

<b>DATES</b>	<b>Assigned</b>	29-Oct-2007	<b>Screening</b>	31-Oct-2007	<b>EPA Due</b>	
	<b>PCW</b>	1-Feb-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	MIDLAND VILLAGE CAR WASH, INC. dba Village Car Wash & Express Lube		
<b>Reg. Ent. Ref. No.</b>	RN101432763		
<b>Facility/Site Region</b>	7-Midland	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	34906	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1771-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Judy Kluge
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>
			\$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**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply**  Reduction **Subtotal 5**

Before NOV      NOV to EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="checkbox"/>
N/A	<input type="text"/>	(mark with x)

Notes

**0% Enhancement\*** **Subtotal 6**   
 \*Capped at the Total EB \$ Amount

Total EB Amounts	\$1,106
Approx. Cost of Compliance	\$1,500

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 31-Oct-2007

Docket No. 2007-1771-PST-E

PCW

Respondent MIDLAND VILLAGE CAR WASH, INC. dba Village Car V

Policy Revision 2 (September 2002)

Case ID No. 34906

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101432763

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

### 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 submitted</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%

Please Enter Yes or No

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

No adjustment due to compliance history.

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

**Screening Date** 31-Oct-2007

**Docket No.** 2007-1771-PST-E

**PCW**

**Respondent** MIDLAND VILLAGE CAR WASH, INC. dba Village Car Wash & Expres

Policy Revision 2 (September 2002)

**Case ID No.** 34906

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN101432763

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Judy Kluge

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii), and Tex. Water Code 26.3475(a) and (c)(1)

**Violation Description**

Failed to provide release detection for the piping associated with the USTs. Specifically, the the annual piping tightness tests had not been conducted. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons.

**Base Penalty**

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

**Matrix Notes**

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended from the date of the investigation, September 13, 2007, to the October 31, 2007 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** MIDLAND VILLAGE CAR WASH, INC. dba Village Car Wash & Express Lube  
**Case ID No.** 34906  
**Reg. Ent. Reference No.** RN101432763  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	13-Sep-2007	2-Nov-2007	0.1	\$3	n/a	\$3

**Notes for DELAYED costs**

The estimated conduct reconciliation of inventory control records. The date required is the investigation date and the final date is 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
<b>ONE-TIME avoided costs [3]</b>	<b>\$1,000</b>	<b>13-Sep-2006</b>	<b>2-Nov-2007</b>	<b>2.1</b>	<b>\$103</b>	<b>\$1,000</b>	<b>\$1,103</b>
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs**

Avoided costs for conducting annual piping tightness test and line leak detector test. The date required is one year prior to the investigation date and the final date is the compliance date.

<b>Approx. Cost of Compliance</b>	<b>\$1,500</b>	<b>TOTAL</b>	<b>\$1,106</b>
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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

<b>DATES</b>	Assigned	29-Oct-2007	Screening	31-Oct-2007	EPA Due	
	PCW	1-Feb-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube		
Reg. Ent. Ref. No.	RN100528058		
Facility/Site Region	7-Midland	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34906	No. of Violations	2	
Docket No.	2007-1771-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge	
Multi-Media		EC's Team	Enforcement Team 6	
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** **Subtotals 2, 3, & 7**

Notes

**Culpability** **Subtotal 4**

Notes

**Good Faith Effort to Comply** **Subtotal 5**

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

Notes

**Approx. Cost of Compliance** **Subtotal 6**

Total EB Amounts	\$1,637
Approx. Cost of Compliance	\$2,000

\*0% Enhancement\*  
\*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 31-Oct-2007

Docket No. 2007-1771-PST-E

PCW

Respondent MIDLAND VILLAGE CAR WASH, INC. dba Village East I

Policy Revision 2 (September 2002)

Case ID No. 34906

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN100528058

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

### 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 judgments 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 submitted)	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%

Please Enter Yes or No

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

No adjustment due to compliance history.

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

<b>Screening Date</b> 31-Oct-2007	<b>Docket No.</b> 2007-1771-PST-E	<b>PCW</b>
<b>Respondent</b> MIDLAND VILLAGE CAR WASH, INC. dba Village East Express	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 34906	<i>PCW Revision November 6, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN100528058		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Judy Kluge		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.49(c)(2)(C) and Tex. Water Code § 26.3475(d)	
<b>Violation Description</b>	Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, bimonthly inspections of the impressed current cathodic protection system were not being conducted.	
<b>Base Penalty</b>		\$10,000

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

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual				
Potential	x			<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">25%</span>	

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
					<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0%</span>

**Matrix Notes** Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 1 48 Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$2,500

One quarterly event is recommended from the date of the investigation, September 13, 2007, to the October 31, 2007 screening date.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount \$530

Violation Final Penalty Total \$3,000

**This violation Final Assessed Penalty (adjusted for limits)** \$3,000

## Economic Benefit Worksheet

**Respondent** MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube  
**Case ID No.** 34906  
**Reg. Ent. Reference No.** RN100528058  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

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

Item Description	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]	\$500	15-Jul-2007	2-Nov-2007	1.2	\$30	\$500	\$530
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated amount to conduct bimonthly inspections of the cathodic protection system. The date required is 60 days prior to the investigation, and the final date is the compliance date.

Approx. Cost of Compliance

\$500

TOTAL

\$530

**Screening Date** 31-Oct-2007

**Docket No.** 2007-1771-PST-E

**PCW**

**Respondent** MIDLAND VILLAGE CAR WASH, INC. dba Village East Express V

Policy Revision 2 (September 2002)

**Case ID No.** 34906

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN100528058

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Judy Kluge

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii), and Tex. Water Code 26.3475(a) and (c)(1)

**Violation Description**

Failed to provide release detection for the piping associated with the USTs. Specifically, the the annual piping tightness tests had not been conducted. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons.

**Base Penalty** \$10,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

**Percent** 25%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0%

**Matrix Notes**

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$7,500

\$2,500

**Violation Events**

**Number of Violation Events** 1

48 **Number of violation days**

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

**Violation Base Penalty** \$2,500

One quarterly event is recommended based on documentation of the violation during the September 13, 2007 investigation to the October 31, 2007 screening date.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1,106

**Violation Final Penalty Total** \$3,000

**This violation Final Assessed Penalty (adjusted for limits)** \$3,000

## Economic Benefit Worksheet

**Respondent** MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube  
**Case ID No.** 34906  
**Reg. Ent. Reference No.** RN100528058  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	13-Sep-2007	2-Nov-2007	0.1	\$3	n/a	\$3

Notes for DELAYED costs

The estimated to conduct reconciliation of inventory control records. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs**

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

Item Description	Item Cost <small>No commas or \$</small>	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]	\$1,000	13-Sep-2006	2-Nov-2007	2.1	\$103	\$1,000	\$1,103
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided costs for conducting annual piping tightness test and line leak detector test. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$1,106

# Compliance History

Customer/Respondent/Owner-Operator:	CN600743322	Midland Village Car Wash, Inc.	Classification: AVERAGE	Rating: 2.34
Regulated Entity:	RN100528058	VILLAGE EAST EXPRESS WASH AND LUBE	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	5774
Location:	2300 N BIG SPRING ST, MIDLAND, TX, 79705		Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 07 - MIDLAND			
Date Compliance History Prepared:	October 31, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 31, 2002 to October 31, 2007			

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

Name: Judy Kluge Phone: 817-588-5825

### 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)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 04/23/2003 (249805)  
2 10/24/2007 (594560)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
MIDLAND VILLAGE CAR WASH,  
INC. DBA VILLAGE EAST EXPRESS  
WASH & LUBE AND VILLAGE CAR  
WASH & EXPRESS LUBE  
RN100528058  
RN101432763**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-1771-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube and Village Car Wash & Express Lube ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates car washes with four underground storage tanks ("USTs") at 2300 North Big Spring Street and at 604 Andrews Highway in Midland, Midland County, Texas (the "Facilities").
2. The Respondent's four USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about October 29, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Nine Thousand Two Hundred Fifty Dollars (\$9,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Four Hundred Dollars (\$7,400) of the administrative penalty and One Thousand Eight Hundred Fifty Dollars (\$1,850) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
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 the Respondent 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 the Respondent has implemented the following corrective measures:
  - a. As of November 2, 2007, the TCEQ received verification that the Respondent began conducting bimonthly inspections of the rectifier and other system components at the Facility located at 2300 North Big Spring Street in Midland, Texas;
  - b. The TCEQ has received verification that the Respondent successfully conducted the piping tightness and line leak detector tests at the Facilities as of November 2, 2007; and
  - c. The TCEQ has received verification that the Respondent began conducting reconciliation of inventory control records at the Facilities as of November 2, 2007.
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 the Respondent 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

As owner and operator of the Facilities, the Respondent is alleged to have:



1. Failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on September 13, 2007. Specifically, the the annual piping tightness tests had not been conducted.
2. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on September 13, 2007. Specifically, the line leak detectors had not been performance tested annually.
3. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on September 13, 2007.
4. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d). Specifically, bimonthly inspections of the impressed current cathodic protection system at the Facility located at 2300 North Big Spring Street in Midland were not being conducted.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube and Village Car Wash & Express Lube, Docket No. 2007-1771-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 the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Agreed Order.



3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube and Village Car Wash & Express Lube  
DOCKET NO. 2007-1771-PST-E  
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### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]  
For the Executive Director

3/26/2008  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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

Blake Cowart  
Signature

3/10/08  
Date

BLAKE COWART  
Name (Printed or typed)

SECRETARY/TREASURER  
Title

Authorized Representative of  
MIDLAND VILLAGE CAR WASH, INC. dba Village East Express Wash & Lube and  
Village Car Wash & Express Lube

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

