

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2006-1817-PST-E TCEQ ID: RN102050994 CASE NO.: 26017
RESPONDENT NAME: HEROES QUICK STOP, INC. DBA WEZ MART 2

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: 930 East Formosa Boulevard, San Antonio, Bexar 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 April 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Patrick Jackson, Litigation Division, MC 175, (512) 239-6501 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Air Enforcement Section, MC R-4, (817) 588-5886 TCEQ Regional Contact: Mr. Henry Karnei, San Antonio Regional Office, MC R-13, (210) 403-4010 Respondent: Mr. Wael Suleiman, Registered Agent, Heroes Quick Stop, Inc. dba Wez Mart 2, 5835 Heather View, San Antonio, Texas, 78249 Respondent's Attorney: Not represented by counsel.</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 Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: July 3, 2006</p> <p>Date of NOE Relating to this Case: September 4, 2006</p> <p>Background Facts:</p> <p>The EDPRP was filed on April 23, 2007. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The EDFARP was filed on October 3, 2007. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The Respondent failed to file an answer to the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.</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 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 [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>2. Failed to provide a method, or combination of methods, of release detection which shall be capable of detecting a release from any portion of the UST system which contains 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(c)(1)].</p>	<p>Total Assessed: \$30,400</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$30,400</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 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 Executive Director recognizes that the Respondent:</p> <ol style="list-style-type: none"> Submitted a notice of unusual operating conditions of the UST system on April 5, 2005. Submitted rectifier logs, began vapor monitoring as a release detection method, conducted a piping tightness test, began maintaining inventory and corrosion records, and marked fill tubes on September 26, 2006. Renewed and updated the Facility's registration and renewed the Facility's delivery certificate on October 17, 2006. Performed a line leak test on November 16, 2006. <p>Ordering Provisions:</p> <ol style="list-style-type: none"> The Respondent's UST delivery certificate is revoked immediately upon the effective date of this Order. Within 10 days, the Respondent shall send its UST delivery certificate to TCEQ.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to monitor the UST system in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 34.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4. Failed to test the line leak detector at least once per year 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>5. Failed to test the piping at least once per year by means of a piping tightness test that is capable of detecting any release from the piping system of 0.1 gallons per hour when the piping pressure is 150% of normal operating pressure [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(ii)(I) and TEX. WATER CODE § 26.3475(a)].</p> <p>6. Failed to provide adequate corrosion protection records and inventory control records [TCEQ Agreed Order Docket No. 2005-1046-PST-E, Ordering Provision No. 2.b.i. and 30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>7. Failed to renew the Facility's delivery certificate by timely and proper submission of a new UST registration and self-certification form to the agency [30 TEX. ADMIN. CODE § 334.8(c)(4)(B)].</p> <p>8. 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 [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>9. Failed to ensure that a legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form [TCEQ Agreed Order Docket No. 2005-1046-PST-E, Ordering Provision No. 2.b.ii. and 30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>10. Failed to amend, update, or change information on the Facility's UST registration [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>11. Failed to report to the Commission, within 24 hours, unusual operating conditions of the UST system observed by owners or operators [30 TEX. ADMIN. CODE § 334.72(2)].</p>		

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

DATES	Assigned	07-Sep-2006	Screening	29-Sep-2006	EPA Due	
	PCW	02-Feb-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Heroes Quick Stop, Inc. dba Wez Mart 2		
Reg. Ent. Ref. No.	RN102050994		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	26017	No. of Violations	8
Docket No.	2006-1817-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Sandy VanCleave
Multi-Media		EC's Team	Order Compliance Team
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$19,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 60% Enhancement **Subtotals 2, 3, & 7 \$11,400**

Notes: The Respondent received one NOV with same or similar violations and one final agreed enforcement order that contains a denial of liability. The penalty was enhanced due to repeat violator status and poor performer classification.

Culpability 0% Enhancement **Subtotal 4 \$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5 \$0**

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

Notes: The Respondent does not meet the good faith criteria.

Economic Benefit 0% Enhancement* **Subtotal 6 \$0**

Total EB Amounts	\$2,267	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,300	

SUM OF SUBTOTALS 1-7 Final Subtotal **\$30,400**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount \$30,400

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$30,400**

DEFERRAL 0% Reduction **Adjustment \$0**

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

Notes: No deferral is offered for Findings Orders.

PAYABLE PENALTY **\$30,400**

Screening Date 29-Sep-2006 **Docket No.** 2006-1817-PST-E **PCW**
Respondent Heroes Quick Stop, Inc. dba Wez Mart 2 *Policy Revision 2 (September 2002)*
Case ID No. 26017 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102050994
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Sandy VanCleave

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Other	<i>Please Enter Yes or No</i>		
	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)

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

Yes

Adjustment Percentage (Subtotal 3)

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

Poor Performer

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes The Respondent received one NOV with same or similar violations and one final agreed enforcement order that contains a denial of liability. The penalty was enhanced due to repeat violator status and poor performer classification.

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

Screening Date 29-Sep-2006 **Docket No.** 2006-1817-PST-E **PCW**

Respondent Heroes Quick Stop, Inc. dba Wez Mart 2 *Policy Revision 2 (September 2002)*

Case ID No. 26017 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102050994

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin Code § 334.49(c)(2)(C)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(d)

Violation Description

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, during the investigation, Facility representatives stated that the rectifier box was not being checked at least once every 60 days and it was observed that submersible pumps were not isolated as indicated in the PST Registration database.

Base Penalty \$10,000

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Failure to inspect the cathodic protection system could result in improper corrosion protection on the UST system and allow an undetected release of petroleum products which would exceed levels that are protective of human health or 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="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty \$2,500

One quarterly event is recommended for the time frame from the date of the investigation, July 3, 2006, to the date of compliance, September 26, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$4,000

This violation Final Assessed Penalty (adjusted for limits) \$4,000

Economic Benefit Worksheet

Respondent Heroes Quick Stop, Inc. dba Wez Mart 2
Case ID No. 26017
Reg. Ent. Reference No. RN102050994
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)	\$50	03-Jul-2006	26-Sep-2006	0.2	\$1	n/a	\$1

Notes for DELAYED costs: Estimated cost to begin checking the rectifier box and system components for corrosion at least once every 60 days. Date required is the investigation date. Final date is 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 \$50
TOTAL \$1

Screening Date 29-Sep-2006 **Docket No.** 2006-1817-PST-E **PCW**
Respondent Heroes Quick Stop, Inc. dba Wez Mart 2 *Policy Revision 2 (September 2002)*
Case ID No. 26017 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102050994
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Sandy VanCleave

Violation Number
Primary Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(a)(1)(A), (b)(1)(A), (b)(2)(A)(i)(III) and (b)(2)(A)(ii)(I)
Secondary Rule Cite(s) Tex. Water Code § 26.3475(c)(1) and (a)

Violation Description
 Failed to provide a method, or combination of methods, of release detection which shall be capable of detecting a release from any portion of the UST system which contains regulated substances including the tanks, piping, and other underground ancillary equipment, failed to monitor the UST system in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), failed to test the line leak detector at least once per year for performance and operational reliability and failed to test the piping at least once per year by means of a piping tightness test that is capable of detecting any release from the piping system of 0.1 gallons per hour when the piping pressure is at 150% of normal operating pressure. Specifically, during the investigation, Facility representatives stated that they were not monitoring the UST system for releases or providing a method of release detection or performing groundwater monitoring and vapor monitoring as indicated on the Facility's PST registration and it was documented that the last line leak detector test and piping tightness test was conducted on April 4, 2005.

Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes
 Failure to annually test the piping and line leak detectors and provide release detection could result in human health or the environment being exposed to significant amounts of petroleum products that would exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	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 for the time frame from the date of the investigation, July 3, 2006, to the date of screening, September 29, 2006.

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 Heroes Quick Stop, Inc. dba Wez Mart 2
 Case ID No. 26017
 Reg. Ent. Reference No. RN102050994
 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)	\$1,500	03-Jul-2006	17-Nov-2006	0.4	\$28	n/a	\$28

Notes for DELAYED costs: Estimated cost to provide release detection and monitor the UST system for releases. Date required is the investigation date. Final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$2,000	03-Jul-2005	01-Jun-2007	2.0	\$200	\$2,000	\$2,200
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: Estimated cost to conduct a tightness test and line leak detector test.

Approx. Cost of Compliance

TOTAL

Screening Date 29-Sep-2006

Docket No. 2006-1817-PST-E

PCW

Respondent Heroes Quick Stop, Inc. dba Wez Mart 2

Policy Revision 2 (September 2002)

Case ID No. 26017

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102050994

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s) TCEQ Agreed Order Docket No. 2005-1046-PST-E, Ordering Provision No. 2.b.i and 30 Tex. Admin. Code § 334.10(b)
 Secondary Rule Cite(s)

Violation Description Failure to provide adequate corrosion protection records and inventory control records. Specifically, inventory control records submitted after the investigation were incomplete and the corrosion protection records provided did not indicate any corrosion protection for the piping.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

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

Percent

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 Heroes Quick Stop, Inc. dba Wez Mart 2
 Case ID No. 26017
 Reg. Ent. Reference No. RN102050994
 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	\$100	03-Jul-2006	26-Sep-2006	0.2	\$1	n/a	\$1
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to complete and maintain inventory control records and corrosion control records. Date record is the investigation date. Final date is date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date 29-Sep-2006	Docket No. 2006-1817-PST-E	PCW
Respondent Heroes Quick Stop, Inc. dba Wez Mart 2	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 26017	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102050994		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Sandy VanCleave		
Violation Number <input type="text" value="4"/>		
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(4)(B)"/>	
Secondary Rule Cite(s)	<input type="text"/>	
Violation Description	<input type="text" value="Failed to renew the Facility's delivery certificate by timely and proper submission of a new UST registration and self-certification form to the agency. Specifically, during the investigation, it was documented that the delivery certificate posted at the facility had expired on February 28, 2006."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> **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**

		Major	Moderate	Minor	
>>	Falsification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment
Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One single event is recommended based on documentation of the violation during the investigation date, July 3, 2006.

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 Heroes Quick Stop, Inc. dba Wez Mart 2
 Case ID No. 26017
 Reg. Ent. Reference No. RN102050994
 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)	\$100	28-Feb-2006	17-Oct-2006	0.6	\$3	n/a	\$3

Notes for DELAYED costs: Estimate cost to renew a delivery certificate. Date required is the date the delivery certificate expired. Final date is the date the delivery certificate was renewed

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

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date 29-Sep-2006

Docket No. 2006-1817-PST-E

PCW

Respondent Heroes Quick Stop, Inc. dba Wez Mart 2

Policy Revision 2 (September 2002)

Case ID No. 26017

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102050994

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description
 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. Specifically, during the investigation, it was documented that the Facility accepted fuel on March 9, 17, 24 and April 7, 13 and May 8, 17, 25 and June 23, 2006.

Base Penalty

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

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

Percent

>> **Programmatic Matrix**

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

Percent

Matrix Notes
 Accepting the delivery of a regulated substance without a valid, current TCEQ delivery certificate may result in the exposure of a insignificant amount of contaminants which would not exceed levels that are protective to human health and the environment.

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="text" value="X"/>

Violation Base Penalty

Nine single events are recommended based on nine fuel drops.

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 Heroes Quick Stop, Inc. dba Wez Mart 2
Case ID No. 26017
Reg. Ent. Reference No. RN102050994
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The economic benefit for this violation is calculated in violation No. 4.

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

Screening Date 29-Sep-2006 **Docket No.** 2006-1817-PST-E **PCW**

Respondent Heroes Quick Stop, Inc. dba Wez Mart 2 *Policy Revision 2 (September 2002)*

Case ID No. 26017 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102050994

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number 6

Primary Rule Cite(s) TCEQ Agreed Order Docket No. 2005-1046-PST-E, Ordering Provision No. 2.b.ii and 30 Tex. Admin. Code § 334.8(c)(5)(C)

Secondary Rule Cite(s)

Violation Description
Failed to ensure that a legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form. Specifically, during the investigation, it was documented that the tank fill pipes were not labeled as required.

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	
	X			Percent 10%

Matrix Notes: The Respondent failed to comply with 100 percent of this rule.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the investigation date, July 3, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$1,600

This violation Final Assessed Penalty (adjusted for limits) \$1,600

Economic Benefit Worksheet

Respondent Heroes Quick Stop, Inc. dba Wez Mart 2
 Case ID No. 26017
 Reg. Ent. Reference No. RN102050994
 Media [Statute] Petroleum Storage Tank
 Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$350	29-Mar-2005	26-Sep-2006	1.5	\$26	n/a	\$26

Notes for DELAYED costs: Date required is the date the violation was documented during a previous investigation. 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
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 **\$350**

TOTAL \$26

Screening Date 29-Sep-2006	Docket No. 2006-1817-PST-E	PCW
Respondent Heroes Quick Stop, Inc. dba Wez Mart 2	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 26017	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102050994		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Sandy VanCleave		
Violation Number <input type="text" value="7"/>		
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.7(d)(3)"/>	
Secondary Rule Cite(s)	<input type="text"/>	
Violation Description	<input type="text" value="Failed to amend, update, or change information on the Facility's UST registration. Specifically, during the investigation, it was documented that the Respondent failed to amend or update the registration to show accurate tank and piping information."/>	
Base Penalty		<input type="text" value="\$10,000"/>

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

		Harm			
Release		Major	Moderate	Minor	
Actual	OR	<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

	daily	<input type="text"/>
	monthly	<input type="text"/>
mark only one	quarterly	<input type="text"/>
use a small x	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<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 Heroes Quick Stop, Inc. dba Wez Mart 2
 Case ID No. 26017
 Reg. Ent. Reference No. RN102050994
 Media [Statute] Petroleum Storage Tank
 Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	26-Mar-2005	17-Oct-2006	1.6	\$8	n/a	\$8

Notes for DELAYED costs: Date required is the date the violation was documented during a previous investigation. Final date is the date registration was amended.

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 29-Sep-2006 **Docket No.** 2006-1817-PST-E **PCW**

Respondent Heroes Quick Stop, Inc. dba Wez Mart 2 *Policy Revision 2 (September 2002)*

Case ID No. 26017 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102050994

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Heroes Quick Stop, Inc. dba Wez Mart 2
 Case ID No. 26017
 Reg. Ent. Reference No. RN102050994
 Media [Statute] Petroleum Storage Tank
 Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	04-Apr-2005	05-Apr-2005	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
 Estimated cost to report unusual conditions when the owner or operator became aware. Date required was when the tightness test was performed and failed. Final date was when the notification was due.

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN602517278 Heroes Quick Stop, Inc.	Classification: POOR	Rating: 220.25
Regulated Entity:	RN102050994 WEZ MART 2	Classification: POOR	Site Rating: 220.25
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		5936
Location:	930 E FORMOSA BLVD, SAN ANTONIO, TX, 78221	Rating Date: 9/1/2006 Repeat Violator: YES	
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	October 13, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 13, 2001 to October 13, 2006		

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

Name: Sandy VanCleave Phone: (512) 239-2670

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

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

Effective Date: 02/05/2006

ADMINORDER 2005-1046-PST-E

Classification: Moderate

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

Description: Failure to provide records for corrosion protection inspection & test w/site map; SIR & Inventory Control; piping tightness tests; line leak detector tests; and, all fuel delivery receipts to date.

Classification: Minor

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

Description: Failure to amend, update or change information on UST registration.

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vii)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(B)(ii)

Description: Failure to renew delivery certificate.

Classification: Major

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

Description: Failure to have a valid delivery certificate posted during this investigation.

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: Failure to have a valid delivery certificate posted when receiving a fuel delivery.

Classification: Moderate

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

Description: Failure to mark, label or tag all tank fill-pipes according to registration & self-certification form.

Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702[G]

30 TAC Chapter 334, SubChapter B 334.22(a)

Description: Failed to pay outstanding UST fees for TCEQ Account No. 0058342U for fiscal year 2005, in violation of 30 Tex. Admin Code § 334.22(a) and Tex. Water Code § 5.702.

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 05/25/2005 (392523)
- 2 05/08/2006 (464350)
- 3 08/31/2006 (510653)

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

Date: 05/03/2006 (464350)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]
 Description: Failure to provide records for corrosion protection inspection & test w/site map; SIR & Inventory Control; piping tightness tests; line leak detector tests; and, all fuel delivery receipts to date.
 Self Report? NO Classification: Major
 Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(iii)
 Description: Failure to have a valid delivery certificate posted during this investigation.
 Self Report? NO Classification: Major
 Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)
 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)
 Description: Failure to have a valid delivery certificate posted when receiving a fuel delivery.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)
 Description: Failure to mark, label or tag all tank fill-pipes according to registration & self-certification form.
 Self Report? NO Classification: Major
 Citation: 2A TWC Chapter 7, SubChapter A 7.101
 Rqmt Prov: ORDER IA
 Description: Failed to comply with Ordering Provisions of Commission Order Docket No. 2005-1046-PST-E.

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
HEROES QUICK STOP, INC. DBA
WEZ MART 2;
RN102050994

§
§
§
§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-1817-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended 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 ("UST") delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Heroes Quick Stop, Inc. dba Wez Mart 2 ("Heroes Quick Stop").

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

FINDINGS OF FACT

1. Heroes Quick Stop owns and operates a convenience store with retail sales of gasoline located at 930 East Formosa Boulevard, San Antonio, Bexar County, Texas (the Facility").
2. Heroes Quick Stop's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Heroes Quick Stop's USTs contain a regulated substance as defined in the rules of the Commission.
3. During an inspection conducted on July 3, 2006, TCEQ staff documented that Heroes Quick Stop:
 - a. 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, during the investigation, Facility representatives stated that the rectifier box was not being checked at least once every 60 days and

it was observed that submersible pumps were not isolated as indicated in the PST Registration database;

- b. Failed to provide a method, or combination of methods, of release detection which shall be capable of detecting a release from any portion of the UST system which contains regulated substances including the tanks, piping, and other underground ancillary equipment. Specifically, during the investigation, Facility representatives stated that they were not providing a method of release detection;
- c. Failed to monitor the UST system in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, during the investigation, Facility representatives stated that they were not monitoring the UST system for releases;
- d. Failed to test the line leak detector at least once per year for performance and operational reliability. Specifically, during the investigation, it was documented that the last line leak detector test was conducted on April 4, 2005;
- e. Failed to test the piping at last once per year by means of a piping tightness test that is capable of detecting any release from the piping system of 0.1 gallons per hour when the piping pressure is 150% of normal operating pressure. Specifically, during the investigation, it was documented that the last piping tightness test was conducted on April 4, 2005;
- f. Failed to provide adequate corrosion protection records and inventory control records. Specifically, inventory control records submitted after the investigation were incomplete and the corrosion protection records provided did not indicate any corrosion protection for the piping;
- g. Failed to renew the Facility's delivery certificate by timely and proper submission of a new UST registration and self-certification form to the agency. Specifically, during the investigation, it was documented that the delivery certificate posted at the Facility had expired on February 28, 2006;
- h. 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. Specifically, during the investigation, it was documented that the Facility accepted fuel on March 9, 17, 24 and April 7, 13, and May 8, 17, 25 and June 23, 2006;
- i. Failed to ensure that a legible tag, label, or marking with the tank number was

- permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form. Specifically, during the investigation, it was documented that the tank fill pipes were not labeled as required;
- j Failed to amend, update, or change information on the Facility's UST registration. Specifically, during the investigation, it was documented that the Respondent failed to amend or update the registration to show accurate tank and piping information; and
- k. Failed to report to the Commission, within 24 hours, unusual operating conditions of the UST system observed by owners or operators. Specifically, during the investigation, a review of Facility records revealed the premium tank had failed a tank tightness test and there was a leakage of air entering the tank.
4. Heroes Quick Stop received notice of the violations on or about September 4, 2006.
5. The Executive Director recognizes that Heroes Quick Stop fully came into compliance by November 16, 2006. Specifically, Heroes Quick Stop:
- a. Submitted a notice of unusual operating conditions of the UST system on April 5, 2005;
- b. Submitted rectifier logs, began vapor monitoring as a release detection method, conducted a piping tightness test, began maintaining inventory and corrosion records, and marked fill tubes on September 26, 2006;
- c. Renewed and updated the Facility's registration and renewed the Facility's delivery certificate on October 17, 2006; and
- d. Performed a line leak test on November 16, 2006.
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 Heroes Quick Stop, Inc. dba Wez Mart 2" (the "EDPRP") in the TCEQ Chief Clerk's office on April 23, 2007.
7. By letter dated April 23, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Heroes Quick Stop with notice of the EDPRP. The United States Postal Service returned the wrapper sent by

certified mail as "unclaimed." The first class mail has not been returned, indicating that Heroes Quick Stop received notice of the EDPRP.

8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Heroes Quick Stop, Inc. dba Wez Mart 2" (the "EDFARP") in the TCEQ Chief Clerk's office on October 3, 2007.
9. By letter dated October 3, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Heroes Quick Stop with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Heroes Quick Stop received notice of the EDFARP.
10. More than 20 days have elapsed since Heroes Quick Stop received notice of the EDPRP and the EDFARP, provided by the Executive Director. Heroes Quick Stop failed to file an answer to either the EDPRP or the EDFARP, 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, Heroes Quick Stop is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Heroes Quick Stop 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).
3. As evidenced by Finding of Fact No. 3.b., Heroes Quick Stop failed to provide a method, or combination of methods, of release detection which shall be capable of detecting a release from any portion of the UST system which contains 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(c)(1).
4. As evidenced by Finding of Fact No. 3.c., Heroes Quick Stop failed to monitor the UST system in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).

5. As evidenced by Finding of Fact No. 3.d., Heroes Quick Stop failed to test the line leak detector 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).
6. As evidenced by Finding of Fact No. 3.e., Heroes Quick Stop failed to test the piping at least once per year by means of a piping tightness test that is capable of detecting any release from the piping system of 0.1 gallons per hour when the piping pressure is 150% of normal operating pressure, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(ii)(I) and TEX. WATER CODE § 26.3475(a).
7. As evidenced by Finding of Fact No. 3.f., Heroes Quick Stop failed to provide adequate corrosion protection records and inventory control records, in violation of TCEQ Agreed Order Docket No. 2005-1046-PST-E, Ordering Provision No. 2.b.i. and 30 TEX. ADMIN. CODE § 334.10(b).
8. As evidenced by Finding of Fact No. 3.g., Heroes Quick Stop failed to renew the Facility's delivery certificate by timely and proper submission of a new UST registration and self-certification form to the agency, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(B).
9. As evidenced by Finding of Fact No. 3.h., Heroes Quick Stop 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).
10. As evidenced by Finding of Fact No. 3.i., Heroes Quick Stop failed to ensure that a legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of TCEQ Agreed Order Docket No. 2005-1046-PST-E, Ordering Provision No. 2.b.ii. and 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).
11. As evidenced by Finding of Fact No. 3.j., Heroes Quick Stop failed to amend, update, or change information on the Facility's UST registration, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
12. As evidenced by Finding of Fact No. 3.k., Heroes Quick Stop failed to report to the Commission, within 24 hours, unusual operating conditions of the UST system observed by owners or operators, in violation of 30 TEX. ADMIN. CODE § 334.72(2).

13. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Heroes Quick Stop with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
14. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director has timely served Heroes Quick Stop with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
15. As evidenced by Finding of Fact No. 10, Heroes Quick Stop has failed to file a timely answer to either the EDPRP or the EDFARP, 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 Heroes Quick Stop and assess the penalty recommended by the Executive Director.
16. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Heroes Quick Stop for violations of the Texas Water Code and the Texas Health and Safety 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.
17. An administrative penalty in the amount of thirty thousand four hundred dollars (\$30,400.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
18. 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.
19. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Heroes Quick Stop's UST delivery certificate if the Commission finds that good cause exists.
20. Good cause for revocation of Heroes Quick Stop's UST delivery certificate exists as justified by Findings of Fact Nos. 3 and 6 through 10 and Conclusions of Law Nos. 2 through 15.

ORDERING PROVISIONS

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

1. Heroes Quick Stop is assessed an administrative penalty in the amount of thirty thousand four hundred dollars (\$30,400.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. 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: Heroes Quick Stop, Inc. dba Wez Mart 2; Docket No. 2006-1817-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. Heroes Quick Stop's UST delivery certificate is revoked immediately upon the effective date of this Order. Heroes Quick Stop may submit an application for a new delivery certificate only after Heroes Quick Stop has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Heroes Quick Stop shall send its UST delivery certificate to:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Heroes Quick Stop. Heroes Quick Stop is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

6. 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 Heroes Quick Stop shall be made in writing to the Executive Director. Extensions are not effective until Heroes Quick Stop receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Heroes Quick Stop if the Executive Director determines that Heroes Quick Stop has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PATRICK N. JACKSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Patrick N. Jackson. 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.

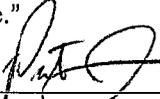
On behalf of the Executive Director of the Texas Commission on Environmental Quality, Rachael Gaines, a TCEQ Litigation Division Attorney, filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Heroes Quick Stop Inc., dba Wez Mart 2" (the "EDPRP") with the Office of the Chief Clerk on April 23, 2007.

Rachael Gaines sent the EDPRP to Heroes Quick Stop at its last known address on April 23, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Heroes Quick Stop, Inc. dba Wez Mart 2" (the "EDFARP") with the Office of the Chief Clerk on October 3, 2007.

I sent the EDFARP to Heroes Quick Stop at its last known address on October 3, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

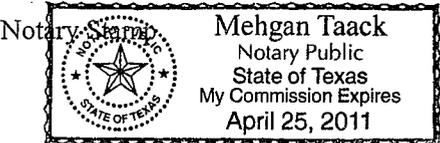
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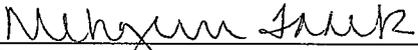


Patrick N. Jackson
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 5th day of February, A.D., 2008.





Notary Signature