

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2007-1917-AIR-E **TCEQ ID:** RN100819192 and RN105016646 **CASE NO.:** 35006

**RESPONDENT NAME:** El Paso County

<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 checked="" 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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> El Paso County RD &amp; Bridge, 14698 Van Lane, El Paso and El Paso County Road &amp; Bridge, 1331 North Fabens Road, Fabens, El Paso County</p> <p><b>TYPE OF OPERATION:</b> County government road maintenance stations that provide gasoline for a county vehicle and maintenance equipment fleet</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 5, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Robert Rivera, County Engineer, El Paso County, 500 East San Antonio Avenue, Room 407, El Paso, Texas 79901                      The Honorable Anthony Cobos, County Judge, El Paso County, 500 East San Antonio Avenue, Room 407, El Paso, Texas 79901  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**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> October 5 and 8, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 30 and December 3, 2007 (NOE)</p> <p><b>Background Facts:</b> These were routine investigations.</p> <p><b>AIR</b></p> <p>1) Failed to comply with the minimum 2.7% by weight oxygenated fuel requirement. Specifically, a sample taken on October 8, 2007 at 14698 Van Lane in El Paso, Texas indicated that the regular unleaded gasoline had an oxygen content of 0.5% by weight [30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failed to comply with the minimum 2.7% by weight oxygenated fuel requirement. Specifically, a sample taken on October 5, 2007 at 1331 North Fabens Road in Fabens, Texas indicated that the regular unleaded gasoline had an oxygen content of 1.2% by weight [30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$2,000</p> <p><b>Total Deferred:</b> \$400  <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> \$1,600</p> <p>RN100819192  <b>Site Compliance History Classification</b>  <input checked="" type="checkbox"/> High <input 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>RN105016646  <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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure that gasoline supplied, sold, or dispensed for use as motor vehicle fuel in El Paso County between October 1 and March 31 of each year shall have the minimum oxygen content of 2.7% by weight at all pumps at the Stations; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): EE1694R



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

<b>DATES</b>	Assigned	26-Nov-2007	Screening	28-Nov-2007	EPA Due	
	PCW	27-Nov-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	EI Paso County		
Reg. Ent. Ref. No.	RN100819192		
Facility/Site Region	6-EI Paso	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35006	No. of Violations	1
Docket No.	2007-1917-AIR-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	John Muennink
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

<b>Penalty Calculation Section</b>			
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>		<b>Subtotal 1</b>	<b>\$1,000</b>
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
<b>Compliance History</b>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
Notes	No enhancement is recommended based on an average performer classification.		
<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>
Notes	The Respondent does not meet the culpability criteria.		
<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	X	(mark with x)	
Notes	The Respondent does not meet the good faith criteria.		
		0% Enhancement*	<b>Subtotal 6</b>
Total EB Amounts	\$16	*Capped at the Total EB \$ Amount	<b>\$0</b>
Approx. Cost of Compliance	\$500		
<b>SUM OF SUBTOTALS 1-7</b>		<b>Final Subtotal</b>	<b>\$1,000</b>
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	<b>\$0</b>
Notes	Reduces or enhances the Final Subtotal by the indicated percentage.		
		<b>Final Penalty Amount</b>	<b>\$1,000</b>
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	<b>\$1,000</b>
<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	<b>-\$200</b>
Notes	Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
	Deferral offered for expedited settlement.		
<b>PAYABLE PENALTY</b>			<b>\$800</b>

**Screening Date** 28-Nov-2007  
**Respondent** El Paso County  
**Case ID No.** 35006  
**Reg. Ent. Reference No.** RN100819192  
**Media [Statute]** Air  
**Enf. Coordinator** John Muennink

**Docket No.** 2007-1917-AIR-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision November 6, 2007

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were 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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

No enhancement is recommended based on an average performer classification.

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

<b>Screening Date</b> 28-Nov-2007	<b>Docket No.</b> 2007-1917-AIR-E	<b>PGW</b>
<b>Respondent</b> El Paso County		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 35006		<i>PCW Revision November 6, 2007</i>
<b>Reg. Ent. Reference No.</b> RN100819192		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> John Muennink		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 114.100(a) and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to comply with the minimum 2.7% by weight oxygenated fuel requirement. Specifically, a sample taken on October 8, 2007 indicated that the regular unleaded gasoline had an oxygen content of 0.5% by weight.	
	<b>Base Penalty</b>	\$10,000

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<b>Percent</b> <input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

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

**Matrix Notes** Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels that are protective of human health or environmental receptors.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	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**

One single event is recommended based on the noncompliant sample that was taken during the October 8, 2007 investigation.

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

<b>Estimated EB Amount</b> <input type="text" value="\$16"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$1,000"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,000"/>	

## Economic Benefit Worksheet

**Respondent:** El Paso County  
**Case ID No.:** 35006  
**Reg. Ent. Reference No.:** RN100819192  
**Media:** Air  
**Violation No.:** 1

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
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### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	8-Oct-2007	31-May-2008	0.6	\$16	n/a	\$16

**Notes for DELAYED costs:** Estimated expense to bring up the oxygenated fuel component to the required minimum. Date required is the date of the investigation. Final date is the date that corrective actions are estimated to be completed.

### 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 \$500

**TOTAL** \$16

# Compliance History

Customer/Respondent/Owner-Operator: CN600342695 El Paso County Classification: AVERAGE Rating: 2.10  
Regulated Entity: RN100819192 EL PASO COUNTY RD & BRIDGE Classification: HIGH Site Rating: 0.00  
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1694R  
Location: 14698 VAN LN, EL PASO, TX, 79938 Rating Date: September 01 07 Repeat Violator: NO  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: November 30, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: November 26, 2002 to November 26, 2007  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: John Muennink Phone: (361) 825-3423

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
    - 1 07/03/2003 (126817)
    - 2 08/11/2004 (285381)
    - 3 11/29/2004 (342505)
    - 4 07/30/2007 (565470)
    - 5 11/21/2007 (600470)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - 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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

**TCEQ**

<b>DATES</b>	<b>Assigned PCW</b>	3-Dec-2007	<b>Screening</b>	5-Dec-2007	<b>EPA Due</b>	
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	EI Paso County
<b>Reg. Ent. Ref. No.</b>	RN105016646
<b>Facility/Site Region</b>	6-EI Paso
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	35006	<b>No. of Violations</b>	1
<b>Docket No.</b>	2007-1917-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	John Muennink
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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**Notes:** No enhancement is recommended based on an average performer classification.

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

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

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

<b>Total EB Amounts</b>	\$16	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
<b>Approx. Cost of Compliance</b>	\$500	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,000</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes:**

**Final Penalty Amount** **\$1,000**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,000</b>
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	<b>-\$200</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes:**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$800</b>
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**Screening Date** 5-Dec-2007  
**Respondent** El Paso County  
**Case ID No.** 35006  
**Reg. Ent. Reference No.** RN105016646  
**Media [Statute]** Air  
**Enf. Coordinator** John Muennink

**Docket No.** 2007-1917-AIR-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision November 6, 2007

**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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

No enhancement is recommended based on an average performer classification.

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

<b>Screening Date</b> 5-Dec-2007	<b>Docket No.</b> 2007-1917-AIR-E	<b>PCW</b>
<b>Respondent</b> El Paso County	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35006	<i>PCW Revision November 6, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN105016646		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> John Muennink		
<b>Violation Number</b>	1	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 114.100(a) and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to comply with the minimum 2.7% by weight oxygenated fuel requirement. Specifically, a sample taken on October 5, 2007 indicated that the regular unleaded gasoline had an oxygen content of 1.2% by weight.	
<b>Base Penalty</b>		\$10,000

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

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		x
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input style="width:50px;" type="text" value="10%"/>	

**>> Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
					<b>Percent</b> <input style="width:50px;" type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to an insignificant amount of pollutants that do not exceed levels that are protective of human health or environmental receptors.				

**Adjustment**

**Violation Events**

Number of Violation Events	<input style="width:50px;" type="text" value="1"/>		<input style="width:50px;" type="text" value="62"/>	Number of violation days												
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="width:50px; text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="padding: 2px;">single event</td><td style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<b>Violation Base Penalty</b> <input style="width:100px;" type="text" value="\$1,000"/>		
daily	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	x															

One single event is recommended based on the noncompliant sample that was taken during the October 5, 2007 investigation.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input style="width:150px;" type="text" value="\$16"/>	<b>Violation Final Penalty Total</b> <input style="width:100px;" type="text" value="\$1,000"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input style="width:100px;" type="text" value="\$1,000"/>	

## Economic Benefit Worksheet

**Respondent:** El Paso County  
**Case ID No.:** 35006  
**Reg. Ent. Reference No.:** RN105016646  
**Media:** Air  
**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
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)	\$500	5-Oct-2007	31-May-2008	0.7	\$16	n/a	\$16

Notes for DELAYED costs

Estimated expense to bring up the oxygenated fuel component to the required minimum. Date required is the date of the investigation. Final date is the date that corrective actions are estimated to be completed.

### 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]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$16

# Compliance History

Customer/Respondent/Owner-Operator: CN600342695 El Paso County Classification: AVERAGE Rating: 2.10  
Regulated Entity: RN105016646 EL PASO COUNTY ROAD & BRIDGE Classification: AVERAGE BY Site Rating: 3.01  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 74551  
Location: 1331 N FABENS RD, FABENS, TX, 79838 Rating Date: September 01 07 Repeat Violator: NO  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: December 05, 2007  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 05, 2002 to December 05, 2007  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: John Muennink Phone: (361) 825-3423

## Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 12/02/2007 (601033)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - 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  
EL PASO COUNTY  
RN100819192  
RN105016646**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§  
§ **ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2007-1917-AIR-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 El Paso County ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 two county government road maintenance stations that provide gasoline for a county vehicle and maintenance equipment fleet at 14698 Van Lane in El Paso and at 1331 North Fabens Road in Fabens, El Paso County, Texas (the "Stations").
2. The Stations consist of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 notice of the violations alleged in Section II ("Allegations") on or about December 5 and 8, 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 Two Thousand Dollars (\$2,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Six Hundred Dollars (\$1,600) of the administrative penalty and Four



Hundred Dollars (\$400) 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 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.
10. 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.
11. 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 Stations, the Respondent is alleged to have:

1. Failed to comply with the minimum 2.7% by weight oxygenated fuel requirement, in violation of 30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 8, 2007. Specifically, a sample taken on October 8, 2007 at 14698 Van Lane in El Paso, Texas indicated that the regular unleaded gasoline had an oxygen content of 0.5% by weight.
2. Failed to comply with the minimum 2.7% by weight oxygenated fuel requirement, in violation of 30 TEX. ADMIN. CODE § 114.100(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 5, 2007. Specifically, a sample taken on October 5, 2007 at 1331 North Fabens Road in Fabens, Texas indicated that the regular unleaded gasoline had an oxygen content of 1.2% by weight.

## 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: El Paso County, Docket No. 2007-1917-AIR-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure that gasoline supplied, sold, or dispensed for use as motor vehicle fuel in El Paso County between October 1 and March 31 of each year shall have the minimum oxygen content of 2.7% by weight at all pumps at the Stations; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and contain the following language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:



Environmental Health Manager  
El Paso City-County Health and Environmental District  
222 S. Campbell Street  
El Paso, Texas 79901

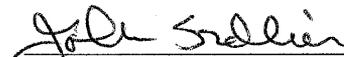
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Stations operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against 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.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), 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.



## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

4/15/2008  
\_\_\_\_\_  
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.

  
\_\_\_\_\_  
Signature

2/5/08  
\_\_\_\_\_  
Date

Anthony Cobos  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
El Paso County

El Paso County Judge  
\_\_\_\_\_  
Title

**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.

