

~~EXECUTIVE SUMMARY - ENFORCEMENT MATTER~~

DOCKET NO.: 2006-1517-PST-E TCEQ ID: RN100875145 CASE NO.: 31000  
RESPONDENT NAME: CULLEN TEXACO, INC. DBA CULLEN TEXACO

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                             |                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|----------------------------------------------------------------------|
| <b>ORDER TYPE:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                             |                                                                      |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <input type="checkbox"/> FINDINGS AGREED ORDER              | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING       |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <input type="checkbox"/> SHUTDOWN ORDER                     | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/> EMERGENCY ORDER                    |                                                                      |
| <b>CASE TYPE:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                             |                                                                      |
| <input type="checkbox"/> AIR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE              |
| <input type="checkbox"/> PUBLIC WATER SUPPLY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION                  |
| <input type="checkbox"/> WATER QUALITY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/> SEWAGE SLUDGE                      | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL               |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | <input type="checkbox"/> RADIOACTIVE WASTE                  | <input type="checkbox"/> DRY CLEANER REGISTRATION                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 7401 Cullen Boulevard, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> A convenience store with retail sales of gasoline.</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 this facility location.</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 12, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/><b>TCEQ Attorney:</b> Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939<br/>Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873<br/><b>TCEQ Enforcement Coordinator:</b> Mr. Marlin Bullard, Waste Enforcement Section, MC R-9, (254) 761-3038<br/><b>TCEQ Regional Contact:</b> Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623<br/><b>Respondent:</b> Mr. Noshir Challa, President, Cullen Texaco, 7401 Cullen Boulevard, Houston, Texas 77051<br/><b>Respondent's Attorney:</b> Mr. Herbert Fortson, III, Fortson, Frazer &amp; Siegrist, P.C., 1500 McGowen, Suite 220, Houston, Texas 77004</p> |                                                             |                                                                      |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | PENALTY CONSIDERATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | CORRECTIVE ACTIONS TAKEN/REQUIRED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b><br/>None</p> <p><b>Date of Investigation Relating to this Case:</b><br/>July 27, 2006</p> <p><b>Date of NOE Relating to this Case:</b><br/>July 31, 2006</p> <p><b>Background Facts:</b><br/>The EDPRP was filed June 18, 2007. The Respondent filed an Answer. The case settled after the SOAH Preliminary Hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST</b></p> <ol style="list-style-type: none"> <li>Failed to maintain Stage II records [30 TEX. ADMIN. CODES §§ 115.246(3), 115.246(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacements or modifications [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to maintain the Stage II Vapor Recovery System in proper operating condition and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3)(A) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to provide a method, or combination of methods, of release detection 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. CODES §§ 334.50(a)(1)(A), 334.50(b)(1)(A), 334.50(b)(2), 334.50(b)(2)(A)(i)(III), and 334.50(d)(1)(B)(ii), and the TEX. WATER CODES § 26.3475(a) and (c)].</li> </ol> | <p><b>Total Assessed:</b> \$22,000</p> <p><b>Total Paid/Due to General Revenue:</b><br/>\$2,225/\$19,775</p> <p>The Respondent has paid \$2,225 of the administrative penalty. The remaining amount of \$19,775 of the administrative penalty shall be payable in 35 monthly payments of \$565 each.</p> <p><b>Site Compliance History Classification:</b><br/><input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b><br/><input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b><br/>September 2002</p> | <p><b>Corrective Action(s) Taken:</b></p> <p>The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> <li>Began maintaining a record of all maintenance conducted on the Stage II equipment on July 27, 2006 and began maintaining a copy of the California Air Resources Board Executive Order (G-70-191AA) at the Facility on August 9, 2006.</li> <li>Tested Stage II equipment for proper operation on July 27, 2006.</li> <li>Installed swivel adapters on fill and vapor risers on August 5, 2006.</li> <li>Contracted with FDR Services to conduct monitoring of USTs at a frequency of at least once every month (not to exceed 35 days between each monitoring); provide release detection for the piping associated with the USTs; and test the line leak detector at least once per year for performance and operational reliability on July 27, 2006. Also the system tested and passed on July 27, 2006.</li> <li>Began measuring regulated substance input, withdrawals, and amounts still remaining in the tank for each operating day on July 27, 2006.</li> <li>Installed tank identification tags on August 5, 2006.</li> <li>Submitted a UST registration and self-certification form and obtained a delivery certificate on August 9, 2006.</li> </ol> |

5. Failed to ensure that a legible tag, label, or marking with the tank number is 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 [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].

6. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].

7. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)].



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

|              |          |             |           |             |         |
|--------------|----------|-------------|-----------|-------------|---------|
| <b>DATES</b> | Assigned | 07-Aug-2006 |           |             |         |
|              | PCW      | 08-Jan-2007 | Screening | 22-Aug-2006 | EPA Due |

|                                        |                                       |                    |              |  |  |
|----------------------------------------|---------------------------------------|--------------------|--------------|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                                       |                    |              |  |  |
| Respondent                             | Cullen Texaco, Inc. dba Cullen Texaco |                    |              |  |  |
| Reg. Ent. Ref. No.                     | RN100875145                           |                    |              |  |  |
| Facility/Site Region                   | 12-Houston                            | Major/Minor Source | Major Source |  |  |

|                                 |                        |                   |                    |  |  |
|---------------------------------|------------------------|-------------------|--------------------|--|--|
| <b>CASE INFORMATION</b>         |                        |                   |                    |  |  |
| Enf./Case ID No.                | 31000                  | No. of Violations | 7                  |  |  |
| Docket No.                      | 2006-1517-PST-E        | Order Type        | 1660               |  |  |
| Media Program(s)                | Petroleum Storage Tank | Enf. Coordinator  | Marlin Bullard     |  |  |
| Multi-Media                     |                        | EC's Team         | Enforcement Team 8 |  |  |
| Admin. Penalty \$ Limit Minimum | \$0                    | Maximum           | \$10,000           |  |  |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** -10% Enhancement Subtotals 2, 3, & 7

Notes

**Culpability** No  Subtotal 4

Notes

**Good Faith Effort to Comply** 10% Reduction Subtotal 5

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

Notes

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

|                            |         |                                   |
|----------------------------|---------|-----------------------------------|
| Total EB Amounts           | \$1,582 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$3,800 |                                   |

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

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

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** 0% Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 22-Aug-2006

Docket No. 2006-1517-PST-E

PCW

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Policy Revision 2 (September 2002)

Case ID No. 31000

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No <

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer <

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes Ten percent reduction for High Performer status.

**Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%**

Screening Date 22-Aug-2006

Docket No. 2006-1517-PST-E

PCW

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Policy Revision 2 (September 2002)

Case ID No. 31000

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failure to maintain Stage II records, as documented during an investigation conducted on July 27, 2006. Specifically, Stage II maintenance records and a copy of the California Air Resources Board Executive Order (G-70-191AA) were not being maintained at the Station.

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="25%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

|                                |                                     |                      |
|--------------------------------|-------------------------------------|----------------------|
| mark only one<br>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 Cullen Texaco, Inc. dba Cullen Texaco

Case ID No. 31000

Reg. Ent. Reference No. RN100875145

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 |
|--------------------------|-----------|---------------|-------------|-----|----------------|---------------|-----------|
| <b>Delayed Costs</b>     |           |               |             |     |                |               |           |
| Equipment                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Buildings                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Land                     |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    | \$500     | 27-Jul-2006   | 09-Aug-2006 | 0.0 | \$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: The delayed cost includes the estimated amount to maintain records at the station. The Date Required is the date of investigation. The Final Date is the date of compliance.

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

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| 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 22-Aug-2006

Docket No. 2006-1517-PST-E

PCW

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Policy Revision 2 (September 2002)

Case ID No. 31000

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

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 Cullen Texaco, Inc. dba Cullen Texaco

Case-ID-No. 31000

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Violation No. 2

|                  |                       |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0              | 15                    |

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

Notes for DELAYED costs

**Avoided Costs**

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

|                               |         |             |             |     |      |         |         |
|-------------------------------|---------|-------------|-------------|-----|------|---------|---------|
| Disposal                      |         |             |             | 0.0 | \$0  | \$0     | \$0     |
| Personnel                     |         |             |             | 0.0 | \$0  | \$0     | \$0     |
| Inspection/Reporting/Sampling |         |             |             | 0.0 | \$0  | \$0     | \$0     |
| Supplies/equipment            |         |             |             | 0.0 | \$0  | \$0     | \$0     |
| Financial Assurance [2]       |         |             |             | 0.0 | \$0  | \$0     | \$0     |
| ONE-TIME avoided costs [3]    |         |             |             | 0.0 | \$0  | \$0     | \$0     |
| Other (as needed)             | \$1,000 | 27-Jul-2005 | 27-Jul-2006 | 1.0 | \$50 | \$1,000 | \$1,050 |

Notes for AVOIDED costs

Estimated cost to conduct annual testing to verify proper operation of the Stage II equipment.  
The Date Required is 12 months prior to the investigation date and Final Date is the investigation date.

Approx. Cost of Compliance \$1,000

**TOTAL** \$1,050

Screening Date 22-Aug-2006

Docket No. 2006-1517-PST-E

PCW

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Policy Revision 2 (September 2002)

Case ID No. 31000

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

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 Cullen Texaco, Inc. dba Cullen Texaco

Case ID No. 31000

Reg. Ent. Reference No. RN100875145

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 |
|--------------------------|-----------|---------------|-------------|-----|----------------|---------------|-----------|
| <b>Delayed Costs</b>     |           |               |             |     |                |               |           |
| Equipment                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Buildings                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Engineering/construction | \$500     | 27-Jul-2006   | 05-Aug-2006 | 0.0 | \$0            | \$1           | \$1       |
| Land                     |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Other (as needed)        |           |               |             | 0.0 | \$0            | n/a           | \$0       |

Notes for DELAYED costs: Estimated amount to install devices to prevent loosening or overtightening of the product adaptor. The Date required is the date of investigation. The Final date is the date of compliance.

| Avoided Costs                 |  | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) |  |     |     |     |     |
|-------------------------------|--|--------------------------------------------------------------------------------------|--|-----|-----|-----|-----|
| Disposal                      |  |                                                                                      |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |                                                                                      |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |                                                                                      |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |                                                                                      |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |                                                                                      |  | 0.0 | \$0 | \$0 | \$0 |
| 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 22-Aug-2006

Docket No. 2006-1517-PST-E

PCW

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Policy Revision 2 (September 2002)

Case ID No. 31000

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(a)(1)(A), 334.50(b)(1)(A), 334.50(b)(2), 334.50(b)(2)(A)(I)(III), and 334.50(d)(1)(B)(ii)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and (c)

Violation Description Failure to provide a method, or combination of methods, of release detection 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, as documented during an investigation conducted on July 27, 2006. Specifically, the respondent did not: monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); provide release detection for the piping associated with the USTs; test the line leak detector at least once per year for performance and operational reliability; and performance test the line leak detectors annually. In addition, measurements for regulated substance inputs, withdrawals, and amounts still remaining in the tank for each operating day were not taken.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 50%     |
| Potential | X     |          |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       |         |

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

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events 1

|                                |              |   |
|--------------------------------|--------------|---|
| mark only one<br>use a small x | daily        |   |
|                                | monthly      |   |
|                                | quarterly    | X |
|                                | semiannual   |   |
|                                | annual       |   |
|                                | single event |   |

Violation Base Penalty \$5,000

One quarterly event is recommended from the inspection date of July 27, 2006 to the screening date of August 22, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$525

Violation Final Penalty Total \$4,000

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

### Economic Benefit Worksheet

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Case ID No. 31000

Reg. Ent. Reference No. RN100875145

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 |
|--------------------------|-----------|---------------|-------------|-----|----------------|---------------|-----------|
| <b>Delayed Costs</b>     |           |               |             |     |                |               |           |
| Equipment                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Buildings                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Land                     |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Training/Sampling        | \$1,000   | 27-Jul-2006   | 27-Jul-2006 | 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 delayed cost includes the estimated amount required to monitor the tanks and the pressurized underground lines in a manner which would detect a releases at a frequency of at least once every month. The Date Required is the date of the investigation. The Final Date is the date of compliance.

| Avoided Costs                 |           | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) |             |     |                |               |           |
|-------------------------------|-----------|--------------------------------------------------------------------------------------|-------------|-----|----------------|---------------|-----------|
| Item Description              | Item Cost | 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 | \$500     | 27-Jul-2005                                                                          | 27-Jul-2006 | 1.0 | \$25           | \$500         | \$525     |
| 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: The avoided cost includes the estimated amount required to test the line leak detector at least once per year for performance and operational reliability. The Date Required is the twelve month period preceding the date of the investigation. The Final Date is the date of the investigation.

Approx. Cost of Compliance **\$1,500** TOTAL **\$525**

Screening Date 22-Aug-2006

Docket No. 2006-1517-PST-E

PCW

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Policy Revision 2 (September 2002)

Case ID No. 31000

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

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                | Percent                          |
|----------------------|-------------------------------------|----------------------|----------------------|----------------------------------|
| <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="25%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

|                                |                                     |                      |
|--------------------------------|-------------------------------------|----------------------|
| mark only one<br>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 Cullen Texaco, Inc. dba Cullen Texaco

Case ID No. 31000

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Violation No. 5

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

| Item Description         | Item Cost | Date Required | Final Date  | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|-----|----------------|---------------|-----------|
| <b>Delayed Costs</b>     |           |               |             |     |                |               |           |
| Equipment                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Buildings                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Land                     |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Other (as needed)        | \$100     | 27-Jul-2006   | 05-Aug-2006 | 0.0 | \$0            | n/a           | \$0       |

Notes for DELAYED costs: Estimated cost to label the tank fill ports. The Date Required is the date of the investigation and the Final Date is the date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$100

**TOTAL** \$0

Screening Date 22-Aug-2006 Docket No. 2006-1517-PST-E PCW

Respondent Cullen Texaco, Inc. dba Cullen Texaco Policy Revision 2 (September 2002)

Case ID No. 31000 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

Violation Number 6

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

Secondary Rule Cite(s)

Violation Description Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the respondent accepted fuel deliveries on July 2, July 6, July 12, July 15, July 19, July 24, July 30, August 1, August 4, and August 8, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       |          | X     |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       |         |

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

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 10

|                                |            |  |
|--------------------------------|------------|--|
| mark only one<br>use a small x | daily      |  |
|                                | monthly    |  |
|                                | quarterly  |  |
|                                | semiannual |  |
|                                | annual     |  |
| single event                   | X          |  |

Violation Base Penalty \$10,000

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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$8,000

This violation Final Assessed Penalty (adjusted for limits) \$8,000

### Economic Benefit Worksheet

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Case ID No. 31000

Reg. Ent. Reference No. RN100875145

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 |
|--------------------------|-----------|---------------|-------------|-----|----------------|---------------|-----------|
| <b>Delayed Costs</b>     |           |               |             |     |                |               |           |
| Equipment                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Buildings                |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |             | 0.0 | \$0            | \$0           | \$0       |
| Land                     |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |             | 0.0 | \$0            | n/a           | \$0       |
| Other (as needed)        | \$200     | 31-Jan-2006   | 09-Aug-2006 | 0.5 | \$5            | n/a           | \$5       |

Notes for DELAYED costs: The estimated cost to renew the TCEQ delivery certificate for four petroleum USTs. The Date Required is the expiration date of the previous delivery certificate and the Final Date is the date of compliance.

| Avoided Costs                 |      | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) |            |     |                |               |           |
|-------------------------------|------|--------------------------------------------------------------------------------------|------------|-----|----------------|---------------|-----------|
| Item                          | 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 **\$200**

**TOTAL \$5**

Screening Date 22-Aug-2006

Docket No. 2006-1517-PST-E

PCW

Respondent Cullen Texaco, Inc. dba Cullen Texaco

Policy Revision 2 (September 2002)

Case ID No. 31000

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

| Falsification        | Major                               | Moderate             | Minor                | Percent                          |
|----------------------|-------------------------------------|----------------------|----------------------|----------------------------------|
| <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="25%"/> |

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

|                                        |              |                                     |
|----------------------------------------|--------------|-------------------------------------|
| <i>mark only one<br/>use a small 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

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 Cullen Texaco, Inc. dba Cullen Texaco

Case ID No. 31000

Reg. Ent. Reference No. RN100875145

Media [Statute] Petroleum Storage Tank

Violation No. 7

|                  |                       |
|------------------|-----------------------|
| Percent Interest | Years of Depreciation |
| 5.0              | 15                    |

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

Notes for DELAYED costs

N/A. Benefit already estimated in violation #6.

**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

# Compliance History

|                                               |                                                                  |                                                  |                   |
|-----------------------------------------------|------------------------------------------------------------------|--------------------------------------------------|-------------------|
| Customer/Respondent/Owner-Operator:           | CN601596463 Cullen Texaco, Inc.                                  | Classification: HIGH                             | Rating: 0.00      |
| Regulated Entity:                             | RN100875145 CULLEN TEXACO                                        | Classification: HIGH                             | Site Rating: 0.00 |
| ID Number(s):                                 | AIR NEW SOURCE PERMITS<br>PETROLEUM STORAGE TANK<br>REGISTRATION | ACCOUNT NUMBER<br>REGISTRATION                   | HG7060S<br>62782  |
| Location:                                     | 7401 CULLEN BLVD, HOUSTON, TX, 77051                             | Rating Date: September 01 06 Repeat Violator: NO |                   |
| TCEQ Region:                                  | REGION 12 - HOUSTON                                              |                                                  |                   |
| Date Compliance History Prepared:             | October 06, 2006                                                 |                                                  |                   |
| Agency Decision Requiring Compliance History: | Enforcement                                                      |                                                  |                   |
| Compliance Period:                            | October 06, 2001 to October 06, 2006                             |                                                  |                   |

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

Name: N/A Phone: N/A

### Site Compliance History Components

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

### 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 03/26/2004 (262732)
    - 2 07/31/2006 (489277)
  - 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  
CULLEN TEXACO, INC. DBA  
CULLEN TEXACO;  
RN100875145

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2006-1517-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Cullen Texaco, Inc. dba Cullen Texaco ("Cullen") under the authority of TEX. WATER CODE chs. 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Cullen, appear before the Commission and together stipulate that:

1. Cullen owns and operates a convenience store with retail sales of gasoline at 7401 Cullen Boulevard, in Houston, Harris County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Cullen agree that the Commission has jurisdiction to enter this Agreed Order, and that Cullen is subject to the Commission's jurisdiction.
4. Cullen received notice of the violations alleged in Section II ("Allegations") on or about July 31, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Cullen of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of twenty-two thousand dollars (\$22,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Cullen has paid two thousand two hundred twenty-five dollars (\$2,225.00) of the administrative penalty. The remaining amount of the nineteen thousand seven hundred seventy-five dollars (\$19,775.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of five hundred sixty-five dollars (\$565.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Cullen fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Cullen to meet the payment schedule of this Agreed Order constitutes the failure by Cullen to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Cullen have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Cullen implemented the following corrective measures at the Facility:
  - a. Began maintaining a record of all maintenance conducted on the Stage II equipment on July 27, 2006 and began maintaining a copy of the California Air Resources Board Executive Order (G-70-191AA) at the Facility on August 9, 2006;
  - b. Tested Stage II equipment for proper operation on July 27, 2006;
  - c. Installed swivel adapters on fill and vapor risers on August 5, 2006;
  - d. Contracted with FDR Services to conduct monitoring of USTs at a frequency of at least once every month (not to exceed 35 days between each monitoring); provide release detection for the piping associated with the USTs; and test the line leak detector at least once per year for performance and operational reliability on July 27, 2006. Also system tested and passed on July 27, 2006;

- e. Began measuring regulated substance input, withdrawals, and amounts still remaining in the tank for each operating day on July 27, 2006;
  - f. Installed tank identification tags on August 5, 2006; and
  - g. Submitted a UST registration and self-certification form and obtained a delivery certificate on August 9, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Cullen has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. As documented during an investigation on July 27, 2006, and corroborated by documents sent to TCEQ on September 6, 2006, Cullen, as owner and operator of the Facility, is alleged to have violated:
- a. 30 TEX. ADMIN. CODES §§ 115.246(3), 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain Stage II records. Specifically, Stage II maintenance records and a copy of the California Air Resources Board Executive Order (G-70-191AA) Order (G-70-191AA) were not being maintained at the Facility.
  - b. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacements or modifications. Specifically, the Facility did not test their equipment in 2005.
  - c. 30 TEX. ADMIN. CODE § 115.242(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain the Stage II vapor recovery system in proper

operating condition and free of defects that would impair the effectiveness of the system. Specifically, swivel adapters were not installed on fill and vapor risers.

- d. 30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), 334.50(b)(1)(A), 334.50(b)(2), 334.50(b)(2)(A)(i)(III), and 334.50(d)(1)(B)(ii), and the TEX. WATER CODES § 26.3475(a) and (c) by failing to provide a method, or combination of methods, of release detection 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, the respondent did not: monitor the UST system for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); provide release detection for the piping associated with the USTs; test the line leak detector at least once per year for performance and operational reliability; and performance test the line leak detectors annually. In addition, measurements for regulated substance inputs, withdrawals, and amounts still remaining in the tank for each operating day were not taken.
- e. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is 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. Specifically, the respondent failed to label the fill tubes of the facilities USTs.
- f. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the respondent accepted fuel deliveries on July 2, July 6, July 12, July 15, July 19, July 24, July 30, August 1, August 4, and August 8, 2006.
- g. 30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii) by failing to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on January 31, 2006.

### III. DENIALS

Cullen generally denies each allegation in Section II (“Allegations”).

#### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Cullen pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Cullen's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Cullen Texaco, Inc. dba Cullen Texaco; Docket No: 2006-1517-PST-E" to:

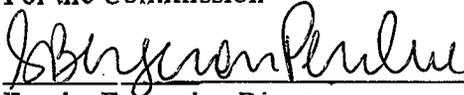
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Cullen. Cullen is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Cullen in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Cullen or three days after the date on which the Commission mails notice of the Order to Cullen, 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

4/29/2008

Date

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

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

- A negative impact on the entity's compliance history;
- Greater scrutiny of any permit applications submitted by the entity;
- Referral of this case to the Attorney General's office for contempt, injunctive relief additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against entity;
- Automatic referral to the Attorney General's Office of any future enforcement actions against the entity; and
- TCEQ seeking other relief as authorized by law.

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

Noshir Challa  
Signature

March 14, 2008  
Date

NOSHIR CHALLA  
Name (Printed or typed)  
Authorized representative of  
Cullen Texaco, Inc. dba Cullen Texaco

President  
Title