

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0702-MLM-E TCEQ ID: RN102276375 CASE NO.: 35836
RESPONDENT NAME: TRUESTATES, LLC DBA BRAKER MART

ORDER TYPE:		
<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	

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

SITE WHERE VIOLATIONS OCCURRED: 2601 West Braker Lane, Austin, Travis County

TYPE OF OPERATION: Owns and operates a convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

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

COMMENTS RECEIVED: The *Texas Register* comment period expired October 5, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Phillip Goodwin, Litigation Division, MC 175, (512) 239-0675
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Judy Kluge Waste Enforcement Section, MC R-4, (817) 588-5825

TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929

Respondent: Mr. Trushyap Kumar Patel, President, TRUESTATES, LLC, 1431 Tamar Lane, Austin, Texas 78727-3335

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 21, 2008</p> <p>Date of NOE Relating to this Case: April 18, 2008</p> <p>Background Facts:</p> <p>The EDPRP was filed on November 18, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on August 12, 2009.</p> <p>Current Compliance Status:</p> <p>The Respondent has not yet submitted documentation to certify compliance with the technical requirements. The Respondent does not yet have a delivery certificate.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to have a continuous monitoring leak detection method in place capable of detecting leaks in the inside wall of a double-walled UST system [30 TEX. ADMIN. CODE § 213.5(d)(1)]. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)]. 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 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)]. 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) and TEX. WATER CODE § 26.3467(a)]. 	<p>Total Assessed: \$13,548</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$10,839/\$2,709</p> <p>The Respondent paid \$10,839 of the administrative penalty. The remaining amount of \$2,709 shall be deferred upon full compliance with the terms of the Agreed Order</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Cease accepting fuel until such time as a valid certificate is obtained from the TCEQ by submitting a property completed UST registration and self-certification form including the current ownership information; and Begin conducting effective manual or automatic inventory control procedures for all USTs. Within 30 days: <ol style="list-style-type: none"> Repair the L1 sensor on the interstitial monitoring system; Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; Ensure shear valves are installed and securely anchored at the base of each dispenser; and Replace the gasket on the super unleaded fill cap and the fill cap on the unleaded plus. Within 45 days, submit written certification to demonstrate compliance.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>6. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>7. Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>8. Failed to comply with the control requirements for emission limitation, as detected by sight, sound, or smell, anywhere in the liquid transfer or vapor balance system [30 TEX. ADMIN. CODE § 115.222(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

DATES	Assigned	22-Apr-2008	Screening	26-Apr-2008	EPA Due	
	PCW	12-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	TRUESTATES, LLC dba Braker Mart		
Reg. Ent. Ref. No.	RN102276375		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35836	No. of Violations	6
Docket No.	2008-0702-MLM-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
Multi-Media	Edwards Aquifer	EC's Team	Enforcement Team 6
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No

Notes

Good Faith Effort to Comply 0.0% Reduction Subtotal 5

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

Total EB Amounts 0.0% Enhancement* Subtotal 6
 *Capped at the Total EB \$ Amount
Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 0.0% 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 26-Apr-2008

Docket No. 2008-0702-MLM-E

PCW

Respondent TRUESTATES, LLC dba Braker Mart

Policy Revision 2 (September 2002)

Case ID No. 35836

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN102276375

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 26-Apr-2008 **Docket No.** 2008-0702-MLM-E **PCW**
Respondent TRUESTATES, LLC dba Braker Mart *Policy Revision 2 (September 2002)*
Case ID No. 35836 *PCW Revision April 29, 2008*
Reg. Ent. Reference No. RN102276375
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge
Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

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 TRUESTATES, LLC dba Braker Mart
 Case ID No. 35836
 Reg. Ent. Reference No. RN102276375
 Media Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	\$500	21-Feb-2008	20-Apr-2008	0.16	\$0	\$5	\$6
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to repair the interstitial monitoring system. The date required is the investigation date and the final date is the date of compliance.

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
<small>ANNUALIZE: [1] avoided costs before entering item (except for one-time avoided costs)</small>							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$500 TOTAL \$6

Screening Date 26-Apr-2008

Docket No. 2008-0702-MLM-E

PCW

Respondent TRUESTATES, LLC dba Braker Mart

Policy Revision 2 (September 2002)

Case ID No. 35836

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN102276375

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

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="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	
	<input type="text" value="100% of the rule requirement was not met."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
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 TRUESTATES, LLC dba Braker Mart
 Case ID No. 35836
 Reg. Ent. Reference No. RN102276375
 Media Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	21-Feb-2008	5-Oct-2008	0.62	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit an amended UST registration form to the TCEQ. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$100	TOTAL	\$3
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Screening Date 26-Apr-2008

Docket No. 2008-0702-MLM-E

PCW

Respondent TRUESTATES, LLC dba Braker Mart

Policy Revision 2 (September 2002)

Case ID No. 35836

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN102276375

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

Rule Cite(s)

Violation Description

Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Station received one delivery of fuel without a delivery certificate.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

Percent

>> Programmatic Matrix

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

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

Violation Events

Number of Violation Events

Number of violation days

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

Violation Base Penalty

One single event is recommended for acceptance of one delivery of fuel.

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 TRUESTATES, LLC dba Braker Mart
Case ID No. 35836
Reg. Ent. Reference No. RN102276375
Media 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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit is included in Violation No. 2.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 26-Apr-2008

Docket No. 2008-0702-MLM-E

PCW

Respondent TRUESTATES, LLC dba Braker Mart

Policy Revision 2 (September 2002)

Case ID No. 35836

PCW Revision April 29, 2008

Reg. Ent. Reference No. RN102276375

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

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 TRUESTATES, LLC dba Braker Mart
 Case ID No. 35836
 Reg. Ent. Reference No. RN102276375
 Media Petroleum Storage Tank
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	21-Feb-2008	5-Nov-2008	0.71	\$18	n/a	\$18
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct inventory control for all USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation and final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$18

Screening Date 26-Apr-2008	Docket No. 2008-0702-MLM-E	PCW		
Respondent TRUESTATES, LLC dba Braker Mart		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 35836		<small>PCW Revision April 29, 2008</small>		
Reg. Ent. Reference No. RN102276375				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number <input type="text" value="5"/>				
Rule Cite(s)	30 Tex. Admin. Code § 334.45(c)(3)(A)			
Violation Description	Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser.			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	x	<input type="text"/>
			Percent	<input type="text" value="10%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent	<input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to a significant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
	Adjustment	<input type="text" value="\$9,000"/>		
		<input type="text" value="\$1,000"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="65"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
	One quarterly event is recommended based on documentation of the violation during the February 21, 2008 investigation to the April 26, 2008 screening date.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$1"/>	Violation Final Penalty Total	<input type="text" value="\$1,000"/>	
	This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,000"/>	

Economic Benefit Worksheet

Respondent TRUESTATES, LLC dba Braker Mart
Case ID No. 35836
Reg. Ent. Reference No. RN102276375
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

Delayed Costs

Equipment	\$100	21-Feb-2008	20-Apr-2008	0.16	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to securely anchor all emergency shutoff valves at the base of the dispensing unit. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$1

Screening Date 26-Apr-2008	Docket No. 2008-0702-MLM-E	PCW												
Respondent TRUESTATES, LLC dba Braker Mart		<small>Policy Revision 2 (September 2002)</small>												
Case ID No. 35836		<small>PCW Revision April 29, 2008</small>												
Reg. Ent. Reference No. RN102276375														
Media [Statute] Petroleum Storage Tank														
Enf. Coordinator Judy Kluge														
Violation Number <input type="text" value="6"/>														
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 115.222(3) and Tex. Health & Safety Code § 382.085(b)"/>													
Violation Description	<input type="text" value="Failed to comply with the control requirements for emission limitation, as detected by sight, sound, or smell, anywhere in the liquid transfer or vapor balance system. Specifically, the super unleaded fill cap was missing a gasket and the unleaded plus fill cap was missing."/>													
	Base Penalty	<input type="text" value="\$10,000"/>												
>> Environmental, Property and Human Health Matrix														
OR	Harm													
	Release Major Moderate Minor													
	Actual <input type="text"/> <input type="text"/> <input type="text"/>													
	Potential <input type="text"/> <input checked="" type="text" value="x"/> <input type="text"/>	Percent <input type="text" value="10%"/>												
>> Programmatic Matrix														
	Falsification Major Moderate Minor													
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Percent <input type="text" value="0%"/>												
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>													
	Adjustment	<input type="text" value="\$9,000"/>												
		<input type="text" value="\$1,000"/>												
Violation Events														
	<input type="text" value="1"/>	<input type="text" value="65"/> Number of violation days												
<small>mark only one with an x</small>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input checked="" type="text" value="x"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="text" value="x"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input checked="" type="text" value="x"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
	<input type="text" value="One quarterly event is recommended based on documentation of the violation during the February 21, 2008 investigation to the April 26, 2008 screening date."/>													
Economic Benefit (EB) for this violation														
Estimated EB Amount	<input type="text" value="\$3"/>	Statutory Limit Test												
		Violation Final Penalty Total <input type="text" value="\$1,000"/>												
	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,000"/>													

Economic Benefit Worksheet

Respondent TRUESTATES, LLC dba Braker Mart
Case ID No. 35836
Reg. Ent. Reference No. RN102276375
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>(No commas or \$)</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment	\$250	21-Feb-2008	20-Apr-2008	0.16	\$0	\$3	\$3
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace the gasket on the fill cap on the super unleaded and to replace the unleaded plus fill cap. The date required is the investigation date and the final date is the compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$3

Compliance History

Customer/Respondent/Owner-Operator:	CN603324609 TRUESTATES, LLC	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN102276375 BRAKER MART	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	70152
	EDWARDS AQUIFER	REGISTRATION	11-97010304
Location:	2601 W BRAKER LN, AUSTIN, TX, 78758	Rating Year: 9/01/07	Repeat Violator: No
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	April 26, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 26, 2003 to April 26, 2008		

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

Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? TRUESTATES, LLC
4. If Yes, who was/were the prior owner(s)? Racetrack Petroleum Inc.
5. When did the change(s) in ownership occur? 09/06/2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 04/17/2008 (636512)
 - 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
TRUESTATES, LLC DBA
BRAKER MART
RN102276375

§
§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0702-MLM-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 TRUESTATES, LLC dba Braker Mart ("Truestates") 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 Truestates appear before the Commission and together stipulate that:

1. Truestates owns and operates a convenience store with retail sales of gasoline at 2200 South Austin Avenue, Georgetown, Williamson County, Texas (the "Station").
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 Truestates agree that the Commission has jurisdiction to enter this Agreed Order, and that Truestates is subject to the Commission's jurisdiction.
4. Truestates received notice of the violations alleged in Section II ("Allegations") on or about April 23, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Truestates of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of eight thousand five hundred dollars (\$8,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Truestates paid two hundred fifty dollars (\$250.00) of the administrative penalty. The remaining amount of eight thousand two hundred fifty dollars (\$8,250.00) of the administrative penalty shall be payable in thirty-five monthly payments of two hundred thirty dollars (\$230.00) each. The first 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 Truestates 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 Truestates to meet the payment schedule of this Agreed Order constitutes the failure of Truestates 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 Truestates 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 Truestates implemented the following corrective measures at the Station in response to this enforcement action:
 - i. Truestates repaired the L1 sensor on the interstitial monitoring system, in accordance with 30 TEX. ADMIN. CODE § 213.5;
 - ii. Truestates submitted documentation demonstrating that it has ensured shear valves are installed and securely anchored at the base of each dispenser, in accordance with 30 TEX. ADMIN. CODE § 334.45; and
 - iii. Replaced the gasket on the super unleaded fill cap and the fill cap on the unleaded plus, in accordance with 30 TEX. ADMIN. CODE § 115.222.
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 Truestates 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. During an investigation conducted on February 21, 2008, an Austin Regional Investigator documented that Truestates violated:
 - a. 30 TEX. ADMIN. CODE § 213.5(d)(1) by failing to have a continuous monitoring leak detection method in place capable of detecting leaks in the inside wall of a double-walled UST system. Specifically, the L1 sensor for the interstitial monitoring system was missing.
 - b. 30 TEX. ADMIN. CODE § 334.7(d)(3), and 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), by failing to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, and 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. Specifically, the registration was not amended to reflect the current ownership information and the delivery certificate expired on September 30, 2006.
 - c. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), 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 Station received one delivery of fuel without a delivery certificate.
 - d. 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day.
 - e. 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), by failing to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser.
 - f. 30 TEX. ADMIN. CODE § 115.222(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to comply with the control requirements for emission limitation, as detected by sight, sound, or smell, anywhere in the liquid transfer or vapor balance system. Specifically, the super unleaded fill cap was missing a gasket and the unleaded plus fill cap was missing.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Truestates pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Truestates'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 or 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: TRUESTATES, LLC dba Braker Mart, Docket No. 2008-0702-MLM-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. Truestates shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order:
 - i. Cease accepting fuel until such time as a valid certificate is obtained from the TCEQ by submitting a property completed UST registration and self-certification form including the current ownership information, in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8; and
 - ii. Begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.
 - b. Within 45 days after the effective date of this Agreed Order, Truestates shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, or other records to demonstrate compliance with Corrective Action Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Barry Kalda, Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon Truestates. Truestates is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If Truestates fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Truestates's failure to comply is not a violation of this Agreed Order. Truestates shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Truestates shall notify the Executive Director within seven days after Truestates becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Truestates shall be made in writing to the Executive Director. Extensions are not effective until Truestates receives

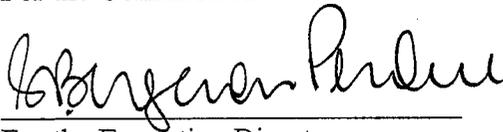
written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Truestates in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to Truestates, or three days after the date on which the Commission mails notice of this Agreed Order to Truestates, 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

9/2/2009

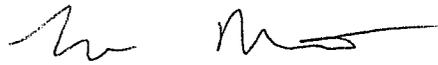
Date

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

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



Signature

8/12/09

Date

Trushyap Patel
Name (Printed or typed)

Trushyapkumar G. Patel

TRUESTATES, LLC dba Braker Mart

Manager

Title