

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0895-EAQ-E **TCEQ ID:** RN105717276 **CASE NO.:** 37781
RESPONDENT NAME: Daniel Blue

| | | |
|---|---|--|
| 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 type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input checked="" type="checkbox"/> EDWARDS AQUIFER |
| <p>SITE WHERE VIOLATION(S) OCCURRED: 15943 Bulverde Rd, located on the south side of Bulverde Road, 1.2 miles south of Loop 1604, San Antonio, Bexar County</p> <p>TYPE OF OPERATION: Storage and rental site</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Daniel Blue, Owner, 5454 Vista Creek, San Antonio, Texas 78247 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

| VIOLATION SUMMARY CHART: | | |
|--|---|--|
| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 13, 2009 and February 20, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 27, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to obtain approval of an aboveground storage tank ("AST") Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone [30 TEX. ADMIN. CODE § 213.4(a)(1)].</p> | <p>Total Assessed: \$1,400</p> <p>Total Deferred: \$280 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,120</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by February 26, 2009, the Respondent's tenants removed the seven ASTs from the Site.</p> |

Additional ID No(s): 13-09021301



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 26-May-2009 | Screening | 8-Jun-2009 | EPA Due | |
| | PCW | 8-Jun-2009 | | | | |

| | |
|--|----------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Daniel Blue |
| Reg. Ent. Ref. No. | RN105717276 |
| Facility/Site Region | 13-San Antonio |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37781 | No. of Violations | 1 |
| Docket No. | 2009-0895-EAQ-E | Order Type | 1660 |
| Media Program(s) | Edwards Aquifer | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Jennifer Graves |
| | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

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

Economic Benefit **Subtotal 6**

Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 8-Jun-2009

Docket No. 2009-0895-EAQ-E

PCW

Respondent Daniel Blue

Policy Revision 2 (September 2002)

Case ID No. 37781

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105717276

Media [Statute] Edwards Aquifer

Enf. Coordinator Jennifer Graves

Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment due to average performer classification.

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

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|-------------------------------------|-------------------------------|----------------------|---|---|--|----------------------|-------------------------------------|----------------------|-------------------------------|---|---|---|-------------------------------------|---------------|----------------------|----------------------|----------------------|----------------------|--|----------|-------------------------------------|----------------------|----------------------|--|--|-----|----------------------|----------------------|--|--|--|--------------|----------------------|--|--|--|
| <p>Screening Date 8-Jun-2009 Respondent Daniel Blue Case ID No. 37781 Reg. Ent. Reference No. RN105717276 Media [Statute] Edwards Aquifer Enf. Coordinator Jennifer Graves Violation Number <input type="text" value="1"/> Rule Cite(s) <input style="width:100%; height:20px;" type="text" value="30 Tex. Admin. Code § 213.4(a)(1)"/> Violation Description <input 13,="" 20,="" 2009="" 2009."="" a="" activity="" and="" aquifer="" as="" ast")="" beginning="" conducted="" documented="" during="" edwards="" facility="" february="" investigations="" on="" over="" plan="" prior="" recharge="" regulated="" style="width:100%; height:60px;" the="" to="" type="text" value="Failed to obtain approval of an Aboveground Storage Tank (" zone,=""/></p> | <p style="text-align: right;">Docket No. 2009-0895-EAQ-E PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2008</i></p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Base Penalty <input style="width:100px;" type="text" value="\$10,000"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| >> Environmental, Property and Human Health Matrix | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>OR</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;"></td> <td style="width:15%; text-align: center;">Release</td> <td style="width:15%; text-align: center;">Major</td> <td style="width:15%; text-align: center;">Harm</td> <td style="width:15%; text-align: center;">Moderate</td> <td style="width:15%; text-align: center;">Minor</td> <td style="width:10%;"></td> </tr> <tr> <td></td> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input style="width:50px;" type="text" value="0%"/></td> </tr> <tr> <td></td> <td>Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> | | Release | Major | Harm | Moderate | Minor | | | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input style="width:50px;" type="text" value="0%"/> | | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | | | | | |
| | Release | Major | Harm | Moderate | Minor | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input style="width:50px;" type="text" value="0%"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| >> Programmatic Matrix | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;"></td> <td style="width:15%; text-align: center;">Falsification</td> <td style="width:15%; text-align: center;">Major</td> <td style="width:15%; text-align: center;">Moderate</td> <td style="width:15%; text-align: center;">Minor</td> <td style="width:10%;"></td> </tr> <tr> <td></td> <td><input type="text"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="vertical-align: middle;">Percent <input style="width:50px;" type="text" value="10%"/></td> </tr> </table> <p>Matrix Notes <input style="width:100%; height:30px;" type="text" value="100% of the rule requirement was not met."/></p> | | Falsification | Major | Moderate | Minor | | | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <input type="text"/> | Percent <input style="width:50px;" type="text" value="10%"/> | Adjustment <input style="width:100px;" type="text" value="\$9,000"/> | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Falsification | Major | Moderate | Minor | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | <input type="text"/> | Percent <input style="width:50px;" type="text" value="10%"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input style="width:100px;" type="text" value="\$1,000"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Events | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Number of Violation Events <input style="width:50px;" type="text" value="1"/> <input style="width:50px;" type="text" value="13"/> Number of violation days</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;"></td> <td style="width:15%; text-align: center;">daily</td> <td style="width:15%;"><input type="text"/></td> <td style="width:15%;"></td> <td style="width:15%;"></td> <td style="width:10%;"></td> </tr> <tr> <td></td> <td>weekly</td> <td><input type="text"/></td> <td></td> <td></td> <td rowspan="6" style="vertical-align: middle;">Violation Base Penalty <input style="width:100px;" type="text" value="\$1,000"/></td> </tr> <tr> <td></td> <td>monthly</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td>quarterly</td> <td><input type="text"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td>semiannual</td> <td><input type="text"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td>annual</td> <td><input type="text"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td>single event</td> <td><input type="text"/></td> <td></td> <td></td> </tr> </table> <p style="font-size: small; margin-left: 20px;"><i>mark only one with an x</i></p> | | daily | <input type="text"/> | | | | | weekly | <input type="text"/> | | | Violation Base Penalty <input style="width:100px;" type="text" value="\$1,000"/> | | monthly | <input checked="" type="checkbox"/> | | | | quarterly | <input type="text"/> | | | | semiannual | <input type="text"/> | | | | annual | <input type="text"/> | | | | single event | <input type="text"/> | | | |
| | daily | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | weekly | <input type="text"/> | | | Violation Base Penalty <input style="width:100px;" type="text" value="\$1,000"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | monthly | <input checked="" type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | quarterly | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | semiannual | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | annual | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | single event | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| One monthly event is recommended based on the investigation date (February 13, 2009) to the date of compliance (February 26, 2009). | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Good Faith Efforts to Comply | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:10%;"></td> <td style="width:15%;"></td> <td style="width:15%; text-align: center;">25.0% Reduction</td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> <td style="width:10%;"></td> </tr> <tr> <td></td> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> <td></td> <td></td> <td rowspan="4" style="vertical-align: middle;">Violation Subtotal <input style="width:100px;" type="text" value="\$750"/></td> </tr> <tr> <td></td> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td>Ordinary</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td><input type="text"/></td> <td></td> <td></td> </tr> <tr> <td></td> <td>N/A</td> <td><input type="text"/></td> <td style="text-align: center;">(mark with x)</td> <td></td> <td></td> </tr> </table> <p>Notes <input style="width:100%; height:30px;" type="text" value="The Respondent came into compliance by February 26, 2009."/></p> | | | 25.0% Reduction | | | | | | | Before NOV | NOV to EDPRP/Settlement Offer | | | Violation Subtotal <input style="width:100px;" type="text" value="\$750"/> | | Extraordinary | <input type="text"/> | <input type="text"/> | | | | Ordinary | <input checked="" type="checkbox"/> | <input type="text"/> | | | | N/A | <input type="text"/> | (mark with x) | | | | | | | | |
| | | 25.0% Reduction | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | Before NOV | NOV to EDPRP/Settlement Offer | | | Violation Subtotal <input style="width:100px;" type="text" value="\$750"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Extraordinary | <input type="text"/> | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | Ordinary | <input checked="" type="checkbox"/> | <input type="text"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | N/A | <input type="text"/> | (mark with x) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Subtotal <input style="width:100px;" type="text" value="\$750"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Economic Benefit (EB) for this violation | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Estimated EB Amount <input style="width:100px;" type="text" value="\$650"/> | Statutory Limit Test | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Violation Final Penalty Total <input style="width:100px;" type="text" value="\$1,400"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| This violation Final Assessed Penalty (adjusted for limits) <input style="width:100px;" type="text" value="\$1,400"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Economic Benefit Worksheet

Respondent Daniel Blue
Case ID No. 37781
Reg. Ent. Reference No. RN105717276
Media Edwards Aquifer
Violation No. 1

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

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

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| 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

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] | \$650 | 13-Feb-2009 | 26-Feb-2009 | 0.00 | \$0 | \$650 | \$650 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost that was avoided for failure to obtain an AST Facility Plan. Date required is the investigation date. Final date is the date all the tanks were removed.

Approx. Cost of Compliance \$650

TOTAL \$650

Compliance History Report

Customer/Respondent/Owner-Operator: CN603469321 BLUE, DANIEL G JR Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105717276 15943 BULVERDE RD Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): EDWARDS AQUIFER REGISTRATION 13-09021301
Location: S SIDE OF BULVERDE RD 1.2 ML S OF LOOP 1604,
IN SAN ANTONIO, BEXAR CO, TEXAS
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: June 02, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 29, 2004 to May 29, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jennifer Graves Phone: 956-430-6023

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 04/27/2009 (737803)
 - 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
DANIEL BLUE
RN105717276

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0895-EAQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Daniel Blue ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a storage and rental site located on the south side of Bulverde Road, 1.2 miles south of Loop 1604 in San Antonio, Bexar County, Texas (the "Site").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 2, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Four Hundred Dollars (\$1,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand One Hundred Twenty Dollars (\$1,120) of the

- administrative penalty and Two Hundred Eighty Dollars (\$280) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director recognizes that by February 26, 2009, the Respondent's tenants removed the seven aboveground storage tanks ("ASTs") from the Site.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner of the Site, the Respondent is alleged to have failed to obtain approval of an AST Facility Plan prior to beginning a regulated activity over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1), as documented during investigations conducted on February 13, 2009 and February 20, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Daniel Blue, Docket No. 2009-0895-EAQ-E" to:

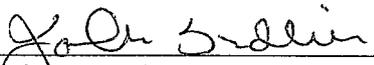
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This 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 under this Agreed Order.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

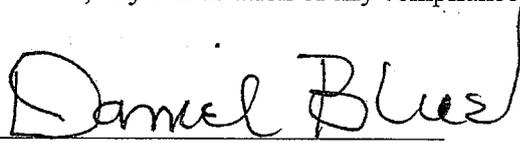
9/3/2009
Date

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

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

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

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


Signature

7/28/09
Date

DANIEL BLUE
Name (Printed or typed)
Authorized Representative of
Daniel Blue

OWNER
Title

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