

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0928-PST-E **TCEQ ID:** RN105487805 **CASE NO.:** 37810
RESPONDENT NAME: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials

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 checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Spec Building Materials, 4300 West Avenue, San Antonio, Bexar County</p> <p>TYPE OF OPERATION: Commercial and residential roofing business with an underground storage tank system</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 November 9, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, TCEQ, (817) 588-5825; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Danny Chapman, Risk Manager, MEL STEVENSON & ASSOCIATES, INC., 2840 Roe Lane, Kansas City, Kansas 66103 Mr. Melvin Stevenson, President, MEL STEVENSON & ASSOCIATES, INC., 2840 Roe Lane, Kansas City, Kansas 66103 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: April 15, 2009</p> <p>Date of NOV Relating to this Case: June 12, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on May 31, 2005 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>2) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, the Facility received six deliveries of fuel without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>3) Failure to ensure that the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge ("ATG") was not being put into test mode monthly (30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4) Failure to provide release detection for the piping associated with the UST system. Specifically, the required annual piping</p>	<p>Total Assessed: \$8,373</p> <p>Total Deferred: \$1,674 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$6,699</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 the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on May 14, 2009;</p> <p>b) The TCEQ San Antonio Regional Office received documentation verifying that the UST is being monitored by putting the ATG into test mode monthly as of April 15, 2009;</p> <p>c) Successfully conducted the required piping tightness and line leak detector tests on April 22, 2009;</p> <p>d) Properly marked the UST according to the UST registration and self-certification form on April 22, 2009;</p> <p>e) Cleaned the liquid out of the sump pumps and began conducting bimonthly inspections of all sumps, manways, overfill containers, or catchment basins associated with the UST system as of April 15, 2009; and</p> <p>f) Anchored the shear valve at the base of the dispenser on April 24, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, equip the UST system with overfill prevention equipment; and</p> <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering</p>

<p>tightness test had not been conducted [30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a)].</p> <p>5) Failure to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>6) Failure 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 for each regulated UST according to the UST registration and self-certification form. Specifically, the two fill ports for the UST were not labeled [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>7) Failure to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity. Specifically, there was no overfill prevention equipment installed on the UST [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>8) Failure to inspect all sumps including the dispenser sumps, manways, overspill containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid tight. Specifically, the sump pump was filled with liquid [30 TEX. ADMIN. CODE § 334.42(i)].</p> <p>9) Failure 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. Specifically, the shear valve on the dispenser was not anchored [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p>		Provision No.a.
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	16-Jun-2009	Screening	17-Jun-2009	EPA Due	
	PCW	18-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials
Reg. Ent. Ref. No.	RN105487805
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37810	No. of Violations	7
Docket No.	2009-0928-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		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	\$10,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0

Notes: No adjustment due to compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,375
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$377
 Approx. Cost of Compliance: \$2,330
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	3.1%	Adjustment	\$248
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 3 and 6.

Final Penalty Amount	\$8,373
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,373
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,674
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,699
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Screening Date: 17-Jun-2009

Docket No: 2009-0928-PST-E

PCW

Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Bull

Policy Revision 2 (September 2002)

Case ID No: 37810

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN105487805

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) 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 compliance history.

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

Screening Date: 17-Jun-2009	Docket No.: 2009-0928-PST-E	PCW	
Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Mate	<small>Policy Revision 2 (September 2002)</small>		
Case ID No.: 37810	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No.: RN105487805			
Media [Statute]: Petroleum Storage Tank			
Enf. Coordinator: Judy Kluge			
Violation Number: 1			
Rule Cite(s):	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)		
Violation Description:	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. Specifically, the delivery certificate expired on May 31, 2005.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
	Actual	Potential	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			0%
>> Programmatic Matrix			
	Major	Moderate	Minor
	Falsification	Falsification	Falsification
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Percent
			10%
Matrix Notes:	100% of the rule requirement was not met.		
Adjustment		\$9,000	
		\$1,000	
Violation Events			
Number of Violation Events:		1	Number of violation days:
		1474	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	Violation Base Penalty
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input checked="" type="checkbox"/>	
		\$1,000	
One single event is recommended.			
Good Faith Efforts to Comply			
		25.0% Reduction	\$250
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
Notes:	The Respondent came into compliance on May 14, 2009, prior to the NOE dated June 12, 2009.		
Violation Subtotal		\$750	
Economic Benefit (EB) for this violation			
Estimated EB Amount		\$101	
Statutory Limit Test			
Violation Final Penalty Total		\$773	
This violation Final Assessed Penalty (adjusted for limits)		\$773	

Economic Benefit Worksheet

Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials
Case ID No.: 37810
Reg. Ent. Reference No.: RN105487805
Media: 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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	1-May-2005	14-May-2009	4.04	\$101	n/a	\$101

Notes for DELAYED costs
 The delayed cost includes the estimated amount to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days before the expiration date of May 31, 2005 and the final date is the compliance date.

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				0.00	\$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	\$101
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Screening Date: 17-Jun-2009	Docket No.: 2009-0928-PST-E	PCW		
Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materi	<small>Policy Revision 2 (September 2002)</small>			
Case ID No.: 37810	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No.: RN105487805				
Media [Statute]: Petroleum Storage Tank				
Enf. Coordinator: Judy Kluge				
Violation Number: 2				
Rule Cite(s):	30 Tex. Admin. Code § 334.8(c)(5)(A)(i), and Tex. Water Code § 26.3467(a)			
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 Facility received six deliveries of fuel without a delivery certificate.			
Base Penalty:		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
				Percent: 5%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent: 0%
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:			\$9,500	
			\$500	
Violation Events				
Number of Violation Events:		6	Number of violation days:	
		6		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input checked="" type="checkbox"/>		
Six single events (one event per delivery) are recommended.				
Good Faith Efforts to Comply		25.0% Reduction	\$750	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>			
Ordinary	<input checked="" type="checkbox"/>			
N/A	<input type="checkbox"/>	(mark with x)		
Notes:	The Respondent came into compliance on May 14, 2009, prior to the NOE dated June 12, 2009.			
Violation Subtotal:			\$2,250	
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount:		\$0	Violation Final Penalty Total: \$2,319	
This violation Final Assessed Penalty (adjusted for limits):			\$2,319	

Economic Benefit Worksheet

Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials
Case ID No.: 37810
Reg. Ent. Reference No.: RN105487805
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
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 included in Violation No. 1.

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: 17-Jun-2009	Docket No.: 2009-0928-PST-E	PCW
Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materi	<i>Policy Revision 2 (September 2002)</i>	
Case ID No.: 37810	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No.: RN105487805		
Media [Statute]: Petroleum Storage Tank		
Enf. Coordinator: Judy Kluge		
Violation Number: 3		
Rule Cite(s): 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2)(A), and (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) and (c)(1)		
Violation Description:	<p>Failed to ensure that the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge ("ATG") was not being put into test mode monthly. Failed to provide release detection for the piping associated with the UST system. Specifically, the required annual piping tightness test had not been conducted. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually.</p>	
Base Penalty:	\$10,000	
>> Environmental, Property and Human Health Matrix		
OR	Release	Major Moderate Minor
	Actual	<input type="text"/> <input type="text"/> <input type="text"/>
	Potential	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	Percent	<input type="text" value="25%"/>
>> 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 pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.	
Adjustment:	\$7,500	
		\$2,500
Violation Events		
Number of Violation Events:	<input type="text" value="1"/>	<input type="text" value="7"/> Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
		Violation Base Penalty: \$2,500
One monthly event is recommended based on documentation of the violation during the April 15, 2009, investigation to the April 22, 2009, compliance date.		
Good Faith Efforts to Comply		
	25.0% Reduction	\$625
	Before NOV NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)
Notes:	The Respondent came into compliance on April 22, 2009, prior to the NOE dated June 12, 2009.	
Violation Subtotal:	\$1,875	
Economic Benefit (EB) for this violation		
Estimated EB Amount:	<input type="text" value="\$143"/>	Statutory Limit Test
		Violation Final Penalty Total: \$1,932
		This violation Final Assessed Penalty (adjusted for limits): \$1,932

Economic Benefit Worksheet

Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials
Case ID No.: 37810
Reg. Ent. Reference No.: RN105487805
Media: Petroleum Storage Tank
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	15-Apr-2009	15-Apr-2009	0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost for putting the ATG into test mode monthly and monitoring the UST. The date required is the investigation date 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 Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$130	15-Apr-2008	22-Apr-2009	1.94	\$13	\$130	\$143
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost for piping tightness and line leak detector tests. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$630

TOTAL

\$143

Screening Date: 17-Jun-2009	Docket No.: 2009-0928-PST-E	PCW				
Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materi.		<small>Policy Revision 2 (September 2002)</small>				
Case ID No.: 37810		<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No.: RN105487805						
Media (Statute): Petroleum Storage Tank						
Enf. Coordinator: Judy Kluge						
Violation Number:	4					
Rule Cite(s):	30 Tex. Admin. Code § 334.8(c)(5)(C)					
Violation Description:	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 for each regulated UST according to the UST registration and self-certification form. Specifically, the two fill ports for the UST were not labeled.					
Base Penalty:		\$10,000				
>> Environmental, Property and Human Health Matrix						
OR	Harm			Percent	0%	
	Release	Major	Moderate			Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor	Percent	10%
	<input type="text"/>	X	<input type="text"/>	<input type="text"/>		
Matrix Notes:	100% of the rule requirement was not met.					
Adjustment:					\$9,000	
					\$1,000	
Violation Events						
Number of Violation Events:		1	Number of violation days:		7	
<i>mark only one with an x</i>	daily	<input type="text"/>				
	weekly	<input type="text"/>				
	monthly	<input type="text"/>				
	quarterly	<input type="text"/>				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
	single event	X				
Violation Base Penalty: \$1,000						
One single event is recommended based on documentation of the violation during the April 15, 2009, investigation.						
Good Faith Efforts to Comply		25.0% Reduction		\$250		
		Before NOV	NOV to EDRP/ Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>				
Ordinary	X	<input type="text"/>				
N/A	<input type="text"/>	(mark with x)				
Notes:	The Respondent came into compliance on April 22, 2009, prior to the NOE dated June 12, 2009.					
Violation Subtotal:					\$750	
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount:		\$0		Violation Final Penalty Total:		\$773
This violation Final Assessed Penalty (adjusted for limits):					\$773	

Economic Benefit Worksheet

Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials
Case ID No.: 37810
Reg. Ent. Reference No.: RN105487805
Media: 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
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)	\$100	15-Apr-2009	22-Apr-2009	0.02	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost includes the amount required to permanently affix a metal label to each UST fill port. The date required is the investigation date 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

\$0

Screening Date: 17-Jun-2009	Docket No.: 2009-0928-PST-E	PCW		
Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materi		<small>Policy Revision 2 (September 2002)</small>		
Case ID No.: 37810		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No.: RN105487805				
Media [Statute]: Petroleum Storage Tank				
Enf. Coordinator: Judy Kluge				
Violation Number:	5			
Rule Cite(s):	30 Tex. Admin. Code § 334.51(b)(2)(C) and Tex. Water Code § 26.3475(c)(2)			
Violation Description:	Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity. Specifically, there was no overfill prevention equipment installed on the UST.			
Base Penalty:		\$10,000		
>> Environmental, Property and Human Health Matrix:				
OR	Harm			
	Major	Moderate	Minor	
Actual:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent: <input type="text" value="10%"/>
Potential:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
>> Programmatic Matrix:				
	Major	Moderate	Minor	
Falsification:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent: <input type="text" value="0%"/>
Matrix Notes:	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:		\$9,000		
				\$1,000
Violation Events				
Number of Violation Events:	<input type="text" value="1"/>	Number of violation days:	<input type="text" value="63"/>	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>	Violation Base Penalty: <input type="text" value="\$1,000"/>	
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
One quarterly event is recommended based on documentation of the violation during the April 15, 2009, investigation to the June 17, 2009, screening date.				
Good Faith Efforts to Comply		0.0% Reduction	\$0	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	(mark with x)		
Notes:	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal:		\$1,000		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount:	<input type="text" value="\$27"/>	Violation Final Penalty Total:	<input type="text" value="\$1,031"/>	
This violation Final Assessed Penalty (adjusted for limits):		<input type="text" value="\$1,031"/>		

Economic Benefit Worksheet

Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials
Case ID No.: 37810
Reg. Ent. Reference No.: RN105487805
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
<i>Item Description - No commas or \$</i>							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$500	16-Apr-2009	18-Jan-2010	0.76	\$1	\$25	\$27
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 of installing overfill prevention equipment. 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)

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

\$27

Screening Date: 17-Jun-2009		Docket No.: 2009-0928-PST-E		PCW		
Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materi.				<i>Policy Revision 2 (September 2002)</i>		
Case ID No.: 37810				<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.: RN105487805						
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 § 334.42(f)"/>				
Violation Description:		Failed to inspect all sumps including the dispenser sumps, manways, overflow containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid tight. Specifically, the sump pump was filled with liquid.				
Base Penalty					<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix						
OR			Harm			
			Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Potential	<input type="text"/>	X	<input type="text"/>	<input type="text"/>		
>> 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 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						
Number of Violation Events		<input type="text" value="1"/>	Number of violation days			<input type="text" value="1"/>
<i>mark only one with an x</i>	daily	<input type="text"/>				
	weekly	<input type="text"/>				
	monthly	<input type="text"/>				
	quarterly	<input checked="" type="checkbox"/>				Violation Base Penalty <input type="text" value="\$1,000"/>
	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 April 15, 2009, investigation to the April 15, 2009, compliance date.						
Good Faith Efforts to Comply		25.0% Reduction		<input type="text" value="\$250"/>		
		Before NOV	NOV to EOPRP/Settlement Offer			
Extraordinary		<input type="text"/>	<input type="text"/>			
Ordinary		X	<input type="text"/>			
N/A		<input type="text"/>	(mark with x)			
Notes		The Respondent came into compliance on April 15, 2009, prior to the NOE dated June 12, 2009.				
Violation Subtotal					<input type="text" value="\$750"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$105"/>	Violation Final Penalty Total		<input type="text" value="\$773"/>	
This violation Final Assessed Penalty (adjusted for limits)					<input type="text" value="\$773"/>	

Economic Benefit Worksheet

Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials
Case ID No.: 37810
Reg. Ent. Reference No.: RN105487805
Media: 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
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]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	14-Feb-2009	15-Apr-2009	1.08	\$5	\$100	\$105

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of the sumps, manways, overflow containers or catchment basins. The date required is 60 days before the investigation and the final date is the investigation date.

Approx. Cost of Compliance

\$100					TOTAL		\$105
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Screening Date: 17-Jun-2009		Docket No.: 2009-0928-PST-E		PCW	
Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materi.		<i>Policy Revision 2 (September 2002)</i>			
Case ID No.: 37810		<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No.: RN105487805					
Media [Statute]: Petroleum Storage Tank					
Enf. Coordinator: Judy Kluge					
Violation Number	7				
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. Specifically, the shear valve on the dispenser was not anchored.				
Base Penalty				\$10,000	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input type="checkbox"/>	x	<input type="checkbox"/>	
				Percent <input type="text" value="10%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="0%"/>	
Matrix Notes	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				\$9,000	
				\$1,000	
Violation Events					
		<input type="text" value="1"/>	<input type="text" value="9"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>			
	weekly	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	x			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input type="checkbox"/>			
				Violation Base Penalty	\$1,000
One quarterly event is recommended based on documentation of the violation during the April 15, 2009, investigation to the April 24, 2009, compliance date.					
Good Faith Efforts to Comply		25.0% Reduction		\$250	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>				
Ordinary	x				
N/A	<input type="checkbox"/>		(mark with x)		
Notes	The Respondent came into compliance on April 24, 2009, prior to the NOE dated June 12, 2009.				
Violation Subtotal				\$750	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$1"/>		Violation Final Penalty Total	
				\$773	
This violation Final Assessed Penalty (adjusted for limits)				\$773	

Economic Benefit Worksheet

Respondent: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials
Case ID No.: 37810
Reg. Ent. Reference No.: RN105487805
Media: Petroleum Storage Tank
Violation No.: 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$500	15-Apr-2009	24-Apr-2009	0.02	\$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 anchor the shear valve. The date required is the investigation date 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 Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$600

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN603339201 MEL STEVENSON & ASSOCIATES, INC. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN105487805 Spec Building Materials Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 31378
Location: 4300 WEST AVE, SAN ANTONIO, TX, 78213
TCEQ Region: REGION 13 - SAN ANTONIO
Date Compliance History Prepared: June 15, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 15, 2004 to June 15, 2009
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/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 06/12/2009 (739418)
- 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
MEL STEVENSON & ASSOCIATES,
INC. DBA SPEC BUILDING
MATERIALS
RN105487805

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0928-PST-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 MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials ("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 commercial and residential roofing business with an underground storage tank ("UST") system at 4300 West Avenue in San Antonio, Bexar County, Texas (the "Facility").
2. The Respondent's one UST is not exempt or excluded from regulation under the Texas Water Code or the rules 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 June 17, 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 Eight Thousand Three Hundred Seventy-Three Dollars (\$8,373) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Six Hundred Ninety-Nine Dollars (\$6,699) of the administrative penalty and One Thousand Six Hundred Seventy-Four Dollars (\$1,674) 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 the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on May 14, 2009;
 - b. The TCEQ San Antonio Regional Office received documentation verifying that the UST is being monitored by putting the automatic tank gauge ("ATG") into test mode monthly as of April 15, 2009;
 - c. Successfully conducted the required piping tightness and line leak detector tests on April 22, 2009;
 - d. Properly marked the UST according to the UST registration and self-certification form on April 22, 2009;
 - e. Cleaned the liquid out of the sump pumps and began conducting bimonthly inspections of all sumps, manways, overfill containers, or catchment basins associated with the UST system as of April 15, 2009; and
 - f. Anchored the shear valve at the base of the dispenser on April 24, 2009.
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 and operator of the Facility, the Respondent is alleged to have:

1. 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, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on April 15, 2009. Specifically, the delivery certificate expired on May 31, 2005.
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on April 15, 2009. Specifically, the Facility received six deliveries of fuel without a delivery certificate.
3. Failed to ensure that the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 15, 2009. Specifically, the ATG was not being put into test mode monthly.
4. Failed to provide release detection for the piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on April 15, 2009. Specifically, the required annual piping tightness test had not been conducted.
5. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on April 15, 2009. Specifically, the line leak detectors had not been performance tested annually.
6. 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 for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on April 15, 2009. Specifically, the two fill ports for the UST were not labeled.
7. Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity, in violation of 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on April 15, 2009. Specifically, there was no overfill prevention equipment installed on the UST.
8. Failed to inspect all sumps including the dispenser sumps, manways, overspill containers, or catchment basins associated with the UST system at least once every 60 days to assure that the

sides, bottoms, and any penetration points are maintained liquid tight, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on April 15, 2009. Specifically, the sump pump was filled with liquid.

9. 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, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an investigation conducted on April 15, 2009. Specifically, the shear valve on the dispenser was not anchored.

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: MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials, Docket No. 2009-0928-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, equip the UST system with overfill prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.51;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and 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 fines 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:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. ...
For the Executive Director

10/11/2009
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.

Danny Chapman
Signature

8-19-09
Date

Danny Chapman
Name (Printed or typed)

Risk Manager
Title

Authorized Representative of
MEL STEVENSON & ASSOCIATES, INC. dba Spec Building Materials

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.

