

EXECUTIVE SUMMARY - ENFORCEMENT MATTER**DOCKET NO.:** 2009-0482-MLM-E **TCEQ ID:** RN101649861 **CASE NO.:** 37421**RESPONDENT NAME:** BRADY IMPLEMENT COMPANY

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 checked="" 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 checked="" type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input checked="" type="checkbox"/> USED OIL
<p>SITE WHERE VIOLATION(S) OCCURRED: BRADY IMPLEMENT COMPANY, 800 North United States Highway 87, Brady, McCulloch County</p> <p>TYPE OF OPERATION: Tractor sales and servicing dealership</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on January 12, 2009, alleging that activities related to washing and servicing tractors were being conducted in a manner which was impacting the environment. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 26, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Ross Fife, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2541; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Cecil Johnson, President, BRADY IMPLEMENT COMPANY, P.O. Box 1349, Brady, Texas 76825 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: January 12, 2009</p> <p>Date of Investigation Relating to this Case: February 5, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 20, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WASTE</p> <p>1) Failure to obtain authorization to operate an underground injection well. Specifically, the Respondent owns and operates an unauthorized Class V injection well (subsurface drain field associated with an oil/water separator) [30 TEX. ADMIN. CODE §§ 331.3(a) and 331.7(a), and 40 CODE OF FEDERAL REGULATIONS § 144.11].</p> <p>2) Failure to submit the appropriate inventory information to the TCEQ. Specifically, the Respondent has not submitted the TCEQ Class V Injection Well Inventory/Authorization Form (TCEQ 10338) [30 TEX. ADMIN. CODE § 331.10(d) and (e)].</p> <p>3) Failure to prevent the unauthorized discharge of used oil. Specifically, soil samples from the discharge area had Total Petroleum Hydrocarbon levels averaging as high as 21,835 milligrams per kilogram ("mg/kg"), which exceed the 11,919 mg/kg set by the Texas Risk Reduction Program requirements [30 TEX. ADMIN. CODE § 324.4(1)].</p>	<p>Total Assessed: \$3,925</p> <p>Total Deferred: \$785 <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: \$3,140</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease utilizing the Class V Injection Well;</p> <p>b. Within 15 days after the effective date of this Agreed Order, submit a completed TCEQ Class V injection well Inventory/Authorization Form (TCEQ 10338);</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE § 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F; and</p> <p>d. Within 75 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 Provision a. through c.</p>

Additional ID No(s): 0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	23-Mar-2009	Screening	6-Apr-2009	EPA Due	
	PCW	15-Apr-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	BRADY IMPLEMENT COMPANY		
Reg. Ent. Ref. No.	RN101649861		
Facility/Site Region	8-San Angelo	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37421	No. of Violations	1
Docket No.	2009-0482-MLM-E	Order Type	1660
Media Program(s)	Used Oil	Government/Non-Profit	No
Multi-Media	Underground Injection Control	Enf. Coordinator	Ross Rife
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$250**

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 adjustments for compliance history.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$0**

Economic Benefit 0.0% Enhancement *Subtotal 6* **\$0**

Total EB Amounts \$608
 Approx. Cost of Compliance \$20,000
**Capped at the Total EB \$ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$250**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$250**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$250**

DEFERRAL 20.0% Reduction *Adjustment* **-\$50**

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 **\$200**

Screening Date 6-Apr-2009

Docket No 2009-0482-MLM-E

PCW

Respondent BRADY IMPLEMENT COMPANY

Policy Revision 2 (September 2002)

Case ID No 37421

PCW Revision October 30, 2008

Reg. Ent. Reference No RN101649861

Media [Statute] Used Oil

Enf. Coordinator Ross Fife

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)**

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustments for compliance history.

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

Screening Date: 6-Apr-2009	Docket No.: 2009-0482-MLM-E	PCW		
Respondent: BRADY IMPLEMENT COMPANY	<i>Policy Revision 2 (September 2002)</i>			
Case ID No.: 37421	<i>PCW Revision October 30, 2009</i>			
Reg. Ent. Reference No.: RN101649861				
Media [Statute]: Used Oil				
Enf. Coordinator: Ross Fife				
Violation Number: 1				
Rule Cite(s):	30 Tex. Admin. Code § 324.4(1)			
Violation Description:	Failed to prevent the unauthorized discharge of used oil, as documented during an investigation conducted on February 5, 2009. Specifically, soil samples from the discharge area had Total Petroleum Hydrocarbon levels averaging as high as 21,835 mg/kg, which exceed the 11,919 mg/kg set by the Texas Risk Reduction Program requirements.			
Base Penalty:	\$2,500			
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Percent	10%		
>> 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 has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment:	\$2,250			
\$250				
Violation Events				
	Number of Violation Events:	1	Number of violation days:	60
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	Violation Base Penalty:	\$250
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
One quarterly event is recommended from the February 5, 2009 investigation date to the April 6, 2009 screening date.				
Good Faith Efforts to Comply				
	0.0% Reduction	\$0		
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>			
Ordinary	<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:	\$250			
Economic Benefit (EB) for this violation				
Estimated EB Amount:	\$608			
Statutory Limit Test				
Violation Final Penalty Total:	\$250			
This violation Final Assessed Penalty (adjusted for limits):	\$250			

Economic Benefit Worksheet

Respondent: BRADY IMPLEMENT COMPANY

Case ID No.: 37421

Reg. Ent. Reference No.: RN101649861

Media: Used Oil

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	\$20,000	5-Feb-2009	15-Sep-2009	0.61	\$608	n/a	\$608
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to perform an initial site assessment. The date required is the investigation date. 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

\$20,000

TOTAL

\$608



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ				
DATES	Assigned	23-Mar-2009	Screening	6-Apr-2009
	PCW	15-Apr-2009	EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	BRADY IMPLEMENT COMPANY
Reg. Ent. Ref. No.	RN101649861
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37421	No. of Violations	2
Docket No.	2009-0482-MLM-E	Order Type	1660
Media Program(s)	Underground Injection Control	Government/Non-Profit	No
Multi-Media	Used Oil	Enf. Coordinator	Ross Fife
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section	
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$3,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
Compliance History	0.0% Enhancement Subtotals 2, 3, & 7 \$0
Notes	No adjustments for compliance history.
Culpability	No 0.0% Enhancement Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 \$0
Economic Benefit	0.0% Enhancement Subtotal 6 \$0
<small>Total EB Amounts</small> \$676	<small>*Capped at the Total EB \$ Amount</small>
<small>Approx. Cost of Compliance</small> \$550	
SUM OF SUBTOTALS 1-7	Final Subtotal \$3,000
OTHER FACTORS AS JUSTICE MAY REQUIRE	22.5% Adjustment \$675
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
Notes	Enhancement to capture the avoided cost associated with violation 1.
	Final Penalty Amount \$3,675
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$3,675
DEFERRAL	20.0% Reduction Adjustment -\$735
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only, e.g. 20 for 20% reduction.)</small>	
Notes	Deferral offered for expedited settlement.
PAYABLE PENALTY	\$2,940

Screening Date 6-Apr-2009

Docket No. 2009-0482-MLM-E

PCW

Respondent BRADY IMPLEMENT COMPANY

Policy Revision 2 (September 2002)

Case ID No. 37421

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101649861

Media [Statute] Underground Injection Control

Enf. Coordinator Ross Fife

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)**

N/A

Adjustment Percentage (Subtotal 3) 0%

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

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustments for compliance history.

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

Screening Date 6-Apr-2009	Docket No.: 2009-0482-MLM-E	PCW			
Respondent BRADY IMPLEMENT COMPANY	<small>Policy Revision 2 (September 2002)</small>				
Case ID No.: 37421	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No.: RN101649881					
Media [Statute] Underground Injection Control					
Enf. Coordinator: Ross Fife					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	30 Tex. Admin. Code §§ 331.3(a) and 331.7(a), and 40 Code of Federal Regulations § 144.11				
Violation Description	Failed to obtain authorization to operate an underground injection well. Specifically, the Respondent owns and operates an unauthorized Class V injection well (subsurface drain field associated with an oil/water separator).				
Base Penalty		<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent <input type="text" value="10%"/>
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				<input type="text" value="\$8,000"/>	
				<input type="text" value="\$1,000"/>	
Violation Events					
	Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="60"/>	Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$2,000"/>	
	weekly	<input type="text"/>			
	monthly	x			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
Two monthly events are recommended from the February 5, 2009 investigation date to the April 6, 2009 screening date.					
Good Faith Efforts to Comply			<input type="text" value="0.0%"/>	Reduction	
			<input type="text" value="Before NOV"/>	<input type="text" value="NOV to EDRFP/Settlement Offer"/>	
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	x	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal				<input type="text" value="\$2,000"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$675"/>	Violation Final Penalty Total <input type="text" value="\$2,450"/>		
			This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,450"/>		

Economic Benefit Worksheet

Respondent BRADY IMPLEMENT COMPANY
Case ID No. 37421
Reg. Ent. Reference No. RN101649861
Media Underground Injection Control
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
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No commas or \$

Delayed Costs

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

Notes for DELAYED costs

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)	\$500	9-Jan-2003	5-Feb-2009	7.00	\$175	\$500	\$675
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to prepare and submit an application and obtain an authorization for the Class V Injection Well. The Date Required is the date authorization was required. The Final Date is the investigation date.

Approx. Cost of Compliance

\$500

TOTAL

\$875

Screening Date: 6-Apr-2009	Docket No.: 2009-0482-MLM-E	PCW
Respondent: BRADY IMPLEMENT COMPANY		<i>Policy Revision 2 (September 2002)</i>
Case ID No.: 37421		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.: RN101649861		
Media [Statute]: Underground Injection Control		
Enf. Coordinator: Ross Fife		
Violation Number: 2		
Rule Cite(s):	30 Tex. Admin. Code § 331.10(d) and (e)	
Violation Description:	Failed to submit the appropriate Inventory information to the TCEQ. Specifically, the Respondent has not submitted the TCEQ Class V Injection Well Inventory/Authorization Form (TCEQ 10338).	
	Base Penalty	\$10,000
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release	Major Moderate Minor
	Actual	<input type="text"/>
	Potential	<input type="text"/>
		Percent <input type="text" value="0%"/>
>> Programmatic Matrix		
	Falsification	Major Moderate Minor
	<input type="text"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
		Percent <input type="text" value="10%"/>
Matrix Notes:	100% of the rule requirement was not met.	
	Adjustment	\$9,000
		<input type="text" value="\$1,000"/>
Violation Events		
Number of Violation Events:	<input type="text" value="1"/>	<input type="text" value="60"/> Number of violation days
<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	<input checked="" type="checkbox"/>
		Violation Base Penalty <input type="text" value="\$1,000"/>
	One single event is recommended.	
Good Faith Efforts to Comply		
	0.0% Reduction	<input type="text" value="\$0"/>
	Before NOV NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
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		
Estimated EB Amount	<input type="text" value="\$2"/>	Statutory Limit Test
		Violation Final Penalty Total <input type="text" value="\$1,225"/>
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,225"/>

Economic Benefit Worksheet

Respondent BRADY IMPLEMENT COMPANY

Case ID No. 37421

Reg. Ent. Reference No. RN101649881

Media Underground Injection Control

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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	\$50	5-Feb-2009	15-Sep-2009	0.61	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit inventory information. The date required is the investigation date. 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

\$50

TOTAL

\$2

Compliance History Report

Customer/Respondent/Owner-Operator: CN600888358 Brady Implement Company Classification: Rating:
Regulated Entity: RN101649861 BRADY IMPLEMENT COMPANY Classification: Site Rating:
ID Number(s):
Location: 800 N. United States Highway 87, Brady, TX
TCEQ Region: REGION 08 - SAN ANGELO
Date Compliance History Prepared: April 27, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 27, 2004 to April 27, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Ross Fife Phone: 512-239-2541

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- 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
BRADY IMPLEMENT COMPANY
RN101649861**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-0482-MLM-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 BRADY IMPLEMENT COMPANY ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 371 and TEX. WATER CODE chs. 7 and 27. 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 tractor sales and servicing dealership at 800 North United States Highway 87 in Brady, McCulloch County, Texas (the "Facility").
2. The Respondent is utilizing an injection well as that term is defined in TEX. WATER CODE § 27.002(11) and the Facility involves or involved the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
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 March 25, 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 Three Thousand Nine Hundred Twenty-Five Dollars (\$3,925) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Thousand One Hundred Forty Dollars (\$3,140) of the administrative penalty and Seven Hundred Eighty-Five Dollars (\$785) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to obtain authorization to operate an underground injection well, in violation of 30 TEX. ADMIN. CODE §§ 331.3(a) and 331.7(a), and 40 CODE OF FEDERAL REGULATIONS § 144.11, as documented during an investigation conducted on February 5, 2009. Specifically, the Respondent owns and operates an unauthorized Class V injection well (subsurface drain field associated with an oil/water separator).
2. Failed to submit the appropriate inventory information to the TCEQ, in violation of 30 TEX. ADMIN. CODE § 331.10(d) and (e), as documented during an investigation conducted on February 5, 2009. Specifically, the Respondent has not submitted the TCEQ Class V Injection Well Inventory/Authorization Form (TCEQ 10338).
3. Failed to prevent the unauthorized discharge of used oil, in violation of 30 TEX. ADMIN. CODE § 324.4(1), as documented during an investigation conducted on February 5, 2009. Specifically, soil samples from the discharge area had Total Petroleum Hydrocarbon levels averaging as high as 21,835 mg/kg, which exceed the 11,919 mg/kg set by the Texas Risk Reduction Program requirements.

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: BRADY IMPLEMENT COMPANY, Docket No. 2009-0482-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease utilizing the Class V Injection Well.
 - b. Within 15 days after the effective date of this Agreed Order, submit a completed TCEQ Class V injection well Inventory/Authorization Form (TCEQ 10338) to:

Underground Injection Control Program
MC - 130
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, submit an Affected Property Assessment Report, pursuant to 30 TEX. ADMIN. CODE § 350.91, to the Executive Director for approval. If response actions are necessary, comply with all applicable requirements of the Texas Risk Reduction Program found in 30 TEX. ADMIN. CODE § 350 which may include: plans, reports, and notices under Subchapter E (30 TEX. ADMIN. CODE §§ 350.92 to 350.96); financial assurance (30 TEX. ADMIN. CODE § 350.33(1)); and Institutional Controls under Subchapter F.
 - d. Within 75 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 Nos. 2.a. through 2.c. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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 Angelo Regional Office
Texas Commission on Environmental Quality
622 South Oakes, Suite K
San Angelo, Texas 76903-7013

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.

BRADY IMPLEMENT COMPANY
DOCKET NO. 2009-0482-MLM-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Ordier
For the Executive Director

9/28/2009
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.

Cecil Johnson
Signature

8-18-09
Date

Cecil Johnson
Name (Printed or typed)
Authorized Representative of
BRADY IMPLEMENT COMPANY

President
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.