

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0666-PST-E **TCEQ ID:** RN102010519 **CASE NO.:** 37585
RESPONDENT NAME: CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral

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: Circle Truck Corral, 3331 Interstate Highway 10 East, Ozona, Crockett County</p> <p>TYPE OF OPERATION: Facility with retail sales of fuel</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 2, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Wallace Myers, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6580; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Tom Mitchell, President, CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral, P.O. Box 1498, Ozona, Texas 76943 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: March 10, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 30, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failure to report a suspected release to the agency within 24 hours of discovery [30 TEX. ADMIN. CODE § 334.72(3)].</p> <p>3) Failure to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for the months of December 2008 and January 2009 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].</p>	<p>Total Assessed: \$28,225</p> <p>Total Deferred: \$5,645 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$635 (remaining \$21,945 due in 35 monthly payments of \$627 each)</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 checked="" type="checkbox"/> Yes <input 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) Within 30 days after the effective date of this Agreed Order:</p> <p>i) Begin conducting reconciliation of inventory control records at least once a month; and</p> <p>ii) Establish and implement a process for reporting a suspected release.</p> <p>b) Within 45 days after the effective date of this Agreed Order, conduct an investigation of the suspected release and implement appropriate corrective measures if required.</p> <p>c) Within 60 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 Provisions a.i. through b.</p>

Additional ID No(s): 64553



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	4-May-2009	Screening	5-May-2009	EPA Due	
	PCW	5-May-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral		
Reg. Ent. Ref. No.	RN102010519		
Facility/Site Region	8-San Angelo	Major/Minor Source	Major

CASE INFORMATION				
Enf./Case ID No.	37585	No. of Violations	3	
Docket No.	2009-0666-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Wallace Myers	
		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	\$22,500
---	------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$5,625
---------------------------	-------------------	---------------------	---------

Notes: Enhancement for one 1660 order and for one NOV with same or similar violations.

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 \$407
 Approx. Cost of Compliance \$6,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$28,125
-----------------------------	----------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.4%	Adjustment	\$100
---	------	------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

Final Penalty Amount	\$28,225
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$28,225
-----------------------------------	------------------------	----------

DEFERRAL	20.0% Reduction	Adjustment	-\$5,645
-----------------	-----------------	------------	----------

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	\$22,580
------------------------	----------

Screening Date 5-May-2009

Docket No. 2009-0666-PST-E

PCW

Respondent CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck C

Policy Revision 2 (September 2002)

Case ID No. 37585

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102010519

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

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)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> 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

Enhancement for one 1660 order and for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 5-May-2009	Docket No. 2009-0666-PST-E	PCW			
Respondent CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37585		<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN102010519					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Wallace Myers					
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 334.50(d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)				
Violation Description	Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment					\$5,000
\$5,000					
Violation Events					
Number of Violation Events		1	Number of violation days		
		56			
mark only one with an x	daily		Violation Base Penalty		
	weekly				
	monthly				
	quarterly	x			
	semiannual				
	annual				
	single event				
One quarterly event is recommended based on documentation of the violation during the March 10, 2009 investigation to the May 5, 2009 screening date.					
Good Faith Efforts to Comply		0.0% Reduction			\$0
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary					
Ordinary					
N/A	x	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal					\$5,000
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$64	Violation Final Penalty Total		\$6,272
This violation Final Assessed Penalty (adjusted for limits)					\$6,272

Economic Benefit Worksheet

Respondent CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral
Case ID No. 37585
Reg. Ent. Reference No. RN102010519
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	10-Mar-2009	5-Feb-2010	0.91	\$3	\$61	\$64
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 provide a method of release detection for the UST system. The date required is the date of the investigation and the final date is the estimated 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 \$1,000 **TOTAL** \$64

Screening Date 5-May-2009	Docket No. 2009-0666-PST-E	PCW		
Respondent CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37585		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN102010519				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Wallace Myers				
Violation Number	<input type="text" value="2"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.72(3)"/>			
Violation Description	<input type="text" value="Failed to report a suspected release to the agency within 24 hours of discovery."/>			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
			Falsification	
			Major	
			Moderate	
			Minor	
			<input type="text" value="x"/>	
				Percent <input type="text" value="25%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>			
Adjustment				<input type="text" value="\$7,500"/>
				<input type="text" value="\$2,500"/>
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="1"/>		
<small>mark only one with an x</small>	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 type="text" value="x"/>		
			Violation Base Penalty	<input type="text" value="\$2,500"/>
<input type="text" value="One single event is recommended based on documentation of the violation during the March 10, 2009 investigation."/>				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	<input type="text" value="x"/>	<input type="text"/>	<input type="text" value="(mark with x)"/>	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal				<input type="text" value="\$2,500"/>
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$100"/>	Violation Final Penalty Total	
			<input type="text" value="\$3,136"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$3,136"/>

Economic Benefit Worksheet

Respondent CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral
Case ID No. 37585
Reg. Ent. Reference No. RN102010519
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

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]	\$100	31-Jan-2009	1-Feb-2009	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to report a suspected release. The date required is the date of the suspected release and the final date is the date the report was due.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date 5-May-2009	Docket No. 2009-0666-PST-E	PCW		
Respondent CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37585		<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN102010519				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Wallace Myers				
Violation Number	<input type="text" value="3"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.74"/>			
Violation Description	<input type="text" value="Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for the months of December 2008 and January 2009 indicated a suspected release that was not investigated."/>			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="50%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/>			
Adjustment				<input type="text" value="\$5,000"/>
				<input type="text" value="\$5,000"/>
Violation Events				
Number of Violation Events		<input type="text" value="3"/>	Number of violation days	
		<input type="text" value="64"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
				Violation Base Penalty <input type="text" value="\$15,000"/>
<input type="text" value="Three monthly events are recommended based on the March 2, 2009 release investigation due date to the May 5, 2009 screening date."/>				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction	
		<input type="text" value="0.0%"/>	<input type="text" value="\$0"/>	
		<input type="text"/>		
		<input type="text"/>		
		<input type="text" value="x"/>	<small>(mark with x)</small>	
Notes		<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
Violation Subtotal				<input type="text" value="\$15,000"/>
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$243"/>	Violation Final Penalty Total <input type="text" value="\$18,817"/>	
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$18,817"/>

Economic Benefit Worksheet

Respondent CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral
Case ID No. 37585
Reg. Ent. Reference No. RN102010510
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$5,000	2-Mar-2009	20-Feb-2010	0.97	\$243	n/a	\$243

Notes for DELAYED costs
 Estimated cost to investigate a suspected release. The date required is the release investigation due date and the final date is the estimated 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 **TOTAL**
\$243

Compliance History Report

Customer/Respondent/Owner-Operator: CN600801195 CIRCLE BAR TRUCK CORRAL, INC. Classification: AVERAGE Rating: 12.37
Regulated Entity: RN102010519 Circle Truck Corral Classification: AVERAGE Site Rating: 23.25
ID Number(s):
Location: 3331 INTERSTATE 10 E, OZONA, TX, 76943
TCEQ Region: REGION 08 - SAN ANGELO
Date Compliance History Prepared: May 07, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 07, 2004 to May 07, 2009

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

Name: Wallace Myers Phone: 512-239-6580

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. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 10/24/2005 ADMINORDER 2005-0737-PST-E
Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(IV)

Description: Failure to check the diesel UST water level measurement in the bottom of the tank to the nearest 1/8 inch at least once a month to make appropriate adjustments to the inventory records.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	03/25/2005	(375146)
2	11/07/2007	(599059)
3	02/15/2008	(618519)
4	04/29/2009	(740065)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/06/2007 (599059)

Self NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: Failure to provide inventory control records reconciled monthly in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1% of flow-through plus 130 gallons according to 30 TAC 334.50(d)(1)(B)(ii).

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
CIRCLE BAR TRUCK CORRAL, INC.	§	
DBA CIRCLE TRUCK CORRAL	§	ENVIRONMENTAL QUALITY
RN102010519	§	

AGREED ORDER
DOCKET NO. 2009-0666-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 CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral ("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 facility with retail sales of fuel at 3331 Interstate Highway 10 East in Ozona, Crockett County, Texas (the "Facility").
2. The Respondent's ten underground storage tanks ("USTs") are 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 May 5, 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 Twenty-Eight Thousand Two Hundred Twenty-Five Dollars (\$28,225) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Hundred Thirty-Five Dollars (\$635) of the

administrative penalty and Five Thousand Six Hundred Forty-Five Dollars (\$5,645) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Twenty-One Thousand Nine Hundred Forty-Five Dollars (\$21,945) of the administrative penalty shall be payable in 35 monthly payments of Six Hundred Twenty-Seven Dollars (\$627) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and 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 conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on March 10, 2009.

2. Failed to report a suspected release to the agency within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72(3), as documented during an investigation conducted on March 10, 2009.
3. Failed to investigate a suspected release of regulated substances within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on March 10, 2009. Specifically, inventory control records for the months of December 2008 and January 2009 indicated a suspected release that was not investigated.

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: CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral, Docket No. 2009-0666-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:
 - i. Begin conducting reconciliation of inventory control records at least once a month, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - ii. Establish and implement a process for reporting a suspected release, in accordance with 30 TEX. ADMIN. CODE § 334.72.
 - b. Within 45 days after the effective date of this Agreed Order, conduct an investigation of the suspected release and implement appropriate corrective measures if required, in accordance with 30 TEX. ADMIN. CODE § 334.74.
 - c. Within 60 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.i. through 2.b. 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 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Bradley
For the Executive Director

10/3/2009
Date

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

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

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

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

X Tom Mitchell
Signature

08/24/09
Date

Tom Mitchell
Name (Printed or typed)
Authorized Representative of

President
Title

CIRCLE BAR TRUCK CORRAL, INC. dba Circle Truck Corral

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.