

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2008-1125-PST-E **TCEQ ID:** RN102438462 **CASE NO.:** 36193  
**RESPONDENT NAME:** Jeff Davidson dba C & W One Stop 12

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> C &amp; W One Stop 12, 117 South Broadway Avenue, Mertzon, Irion County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 16, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Thomas Greimel, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5690; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Jeff Davidson, Owner and Operator, C &amp; W One Stop 12, P.O. Box 9, Mertzon, Texas 76941  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b>                      None</p> <p><b>Date of Investigation Relating to this Case:</b>                      June 5, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b>                      June 18, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to inspect the cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, the Respondent did not conduct the bimonthly inspections of the corrosion protection system [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>2) Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted [30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>3) Failure to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [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 USTs [30 TEX. ADMIN. CODE § 334.50(b)(2) 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 [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p>	<p><b>Total Assessed:</b> \$9,880</p> <p><b>Total Deferred:</b> \$1,976  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$239 (remaining \$7,665 due in 35 monthly payments of \$219 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs;</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Install and implement a release detection method for the USTs and the piping associated with the USTs, and test the line leak detectors for performance and operational reliability; and</p> <p>ii. Begin conducting bimonthly inspections of the cathodic protection system and ensure that the rectifier and other system components are functioning as designed, and conduct the required triennial testing of the cathodic protection system.</p> <p>c. 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 Provisions a. through b.ii.</p>

6) Failure to conduct effective manual or automatic inventory control procedures for the UST system at the Facility [30 TEX. ADMIN. CODE § 334.48(c)].		
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Additional ID No(s): 25839





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

<b>DATES</b>	Assigned	23-Jun-2008	Screening	3-Jul-2008	EPA Due	
	PCW	11-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Jeff Davidson dba C & W One Stop 12
Reg. Ent. Ref. No.	RN102438462
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36193	No. of Violations	3
Docket No.	2008-1125-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

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

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

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

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

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

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 3-Jul-2008

**Docket No.** 2008-1125-PST-E

**PCW**

**Respondent** Jeff Davidson dba C & W One Stop 12

Policy Revision 2 (September 2002)

**Case ID No.** 36193

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN102438462

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Thomas Greimel

### 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 ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

N/A

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment for compliance history.

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

<b>Screening Date</b> 3-Jul-2008	<b>Docket No.</b> 2008-1125-PST-E	<b>PCW</b>												
<b>Respondent</b> Jeff Davidson dba C & W One Stop 12	<small>Policy Revision 2 (September 2002)</small>													
<b>Case ID No.</b> 36193	<small>PCW Revision June 12, 2008</small>													
<b>Reg. Ent. Reference No.</b> RN102438462														
<b>Media [Statute]</b> Petroleum Storage Tank														
<b>Enf. Coordinator</b> Thomas Greimel														
<b>Violation Number</b> <input type="text" value="1"/>														
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4)(C) and Tex. Water Code § 26.3475(d)													
<b>Violation Description</b>	Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, the Respondent did not conduct the bimonthly inspections of the corrosion protection system. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted .													
<b>Base Penalty</b>	<input type="text" value="\$10,000"/>													
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>														
<b>OR</b>	<b>Harm</b>													
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"><b>Release</b></td> <td style="width:33%;">Major</td> <td style="width:33%;">Moderate</td> <td style="width:33%;">Minor</td> </tr> <tr> <td>Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Potential</td> <td><input type="text" value="x"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>	<b>Release</b>	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"/>	<b>Percent</b> <input type="text" value="25%"/>
<b>Release</b>	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"/>											
<b>&gt;&gt;Programmatic Matrix</b>														
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"><b>Falsification</b></td> <td style="width:33%;">Major</td> <td style="width:33%;">Moderate</td> <td style="width:33%;">Minor</td> </tr> <tr> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>	<b>Falsification</b>	Major	Moderate	Minor	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>				
<b>Falsification</b>	Major	Moderate	Minor											
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>											
<b>Matrix Notes</b>	<div style="border: 1px solid black; padding: 5px;">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.</div>													
<b>Adjustment</b>	<input type="text" value="\$7,500"/>													
<input type="text" value="\$2,500"/>														
<b>Violation Events</b>														
Number of Violation Events	<input type="text" value="1"/>	Number of violation days												
	<input type="text" value="1095"/>													
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">daily</td> <td><input type="text"/></td> </tr> <tr> <td>monthly</td> <td><input type="text"/></td> </tr> <tr> <td>quarterly</td> <td><input type="text"/></td> </tr> <tr> <td>semiannual</td> <td><input type="text"/></td> </tr> <tr> <td>annual</td> <td><input type="text"/></td> </tr> <tr> <td>single event</td> <td><input type="text" value="x"/></td> </tr> </table>	daily	<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"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
daily	<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"/>													
<div style="border: 1px solid black; padding: 5px;">One single event is recommended for the three-year period preceding the June 5, 2008 investigation date.</div>														
<b>Good Faith Efforts to Comply</b>														
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%;"></td> <td style="width:50%; text-align: center;">0.0% Reduction</td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV    NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td><input type="text" value="x"/> (mark with x)</td> </tr> </table>		0.0% Reduction		Before NOV    NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	Ordinary	<input type="text"/>	N/A	<input type="text" value="x"/> (mark with x)	<input type="text" value="\$0"/>		
	0.0% Reduction													
	Before NOV    NOV to EDPRP/Settlement Offer													
Extraordinary	<input type="text"/>													
Ordinary	<input type="text"/>													
N/A	<input type="text" value="x"/> (mark with x)													
<b>Notes</b>	<div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>													
<b>Violation Subtotal</b>	<input type="text" value="\$2,500"/>													
<b>Economic Benefit (EB) for this violation</b>														
<b>Estimated EB Amount</b>	<input type="text" value="\$1,284"/>	<b>Statutory Limit Test</b>												
		<b>Violation Final Penalty Total</b> <input type="text" value="\$3,279"/>												
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$3,279"/>												

## Economic Benefit Worksheet

**Respondent** Jeff Davidson dba C & W One Stop 12  
**Case ID No.** 36193  
**Reg. Ent. Reference No.** RN102438462  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

	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)				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 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	\$500	5-Apr-2008	5-Jun-2008	0.17	\$4	\$84	\$88
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	5-Jun-2005	5-Jun-2008	3.92	\$196	\$1,000	\$1,196
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for conducting bimonthly inspection of the rectifier and other components of the impressed current cathodic protection system. Date Required is two months prior to the investigation date. Final Date is the investigation date. Avoided cost to conduct the required triennial testing. Date Required is three years prior to the investigation date. Final Date is the investigation date.

Approx. Cost of Compliance \$1,500

TOTAL \$1,284

<b>Screening Date</b> 3-Jul-2008	<b>Docket No.</b> 2008-1125-PST-E	<b>PCW</b>		
<b>Respondent</b> Jeff Davidson dba C & W One Stop 12	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36193	<small>PCW Revision June 12, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102438462				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Thomas Greimel				
<b>Violation Number</b> <input type="text" value="2"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) and (c)(1)			
<b>Violation Description</b>	Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide release detection for the piping associated with the USTs. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text" value="x"/>	<input type="text"/>	
			<b>Percent</b> <input type="text" value="25%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>			<input type="text" value="\$7,500"/>	
			<input type="text" value="\$2,500"/>	
<b>Violation Events</b>				
	<b>Number of Violation Events</b> <input type="text" value="1"/>	<input type="text" value="28"/>	<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>	
	monthly	<input type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One monthly event is recommended from the June 5, 2008 investigation date to the July 3, 2008 screening date.				
<b>Good Faith Efforts to Comply</b>			<input type="text" value="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 type="text" value="x"/>	<input type="text" value="(mark with x)"/>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>			<input type="text" value="\$2,500"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$1,145"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$3,279"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$3,279"/>	

## Economic Benefit Worksheet

**Respondent** Jeff Davidson dba C & W One Stop 12  
**Case ID No.** 36193  
**Reg. Ent. Reference No.** RN102438462  
**Media** Petroleum Storage Tank  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				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)	\$1,500	5-Jun-2008	31-Jan-2009	0.66	\$49	n/a	\$49

**Notes for DELAYED costs** Estimated cost to provide release detection for the USTs. Date Required is the date of the investigation. Final Date is the estimated 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]	\$1,000	5-Jun-2007	5-Jun-2008	1.92	\$96	\$1,000	\$1,096
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs** Avoided cost for completing the annual piping tightness and line leak detector test. Date Required is one year prior to the investigation date. Final Date is the investigation date.

**Approx. Cost of Compliance** \$2,500

**TOTAL** \$1,145

<b>Screening Date</b> 3-Jul-2008	<b>Docket No.</b> 2008-1125-PST-E	<b>PCW</b>		
<b>Respondent</b> Jeff Davidson dba C & W One Stop 12	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36193	<small>PCW Revision June 12, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102438462				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Thomas Greimel				
<b>Violation Number</b> <input type="text" value="3"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.48(c)			
<b>Violation Description</b>	Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Facility.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	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"/>
		<b>Percent</b>	<input type="text" value="25%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>		<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>		
<b>Violation Events</b>				
<b>Number of Violation Events</b> <input type="text" value="1"/>		<b>Number of violation days</b> <input type="text" value="28"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>	
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One monthly event is recommended from the June 5, 2008 investigation date to the July 3, 2008 screening date.				
<b>Good Faith Efforts to Comply</b>				
		<b>0.0% Reduction</b>	<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"/>	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>		<input type="text" value="\$2,500"/>		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b> <input type="text" value="\$14"/>	<b>Violation Final Penalty Total</b>		<input type="text" value="\$3,279"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$3,279"/>		

## Economic Benefit Worksheet

**Respondent** Jeff Davidson dba C & W One Stop 12  
**Case ID No.** 36193  
**Reg. Ent. Reference No.** RN102438462  
**Media** Petroleum Storage Tank  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$500	5-Jun-2008	31-Dec-2008	0.57	\$14	n/a	\$14
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to conduct inventory control for the UST system. Date Required is the date of the investigation. 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	\$500	<b>TOTAL</b>	\$14
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# Compliance History

Customer/Respondent/Owner-Operator: CN603372715 Davidson, Jeff Classification: Rating:  
Regulated Entity: RN102438462 C & W ONE STOP 12 Classification: AVERAGE Site Rating: 2.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 25839  
REGISTRATION  
Location: 117 S BROADWAY AVE, MERTZON, TX, 76941 Rating Date: September 01 07 Repeat Violator:  
No  
TCEQ Region: REGION 08 - SAN ANGELO  
Date Compliance History Prepared: July 15, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 15, 2003 to July 15, 2008

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

Name: Thomas Greimel Phone: (512) 239-5690

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Jeff Davidson
4. If Yes, who was/were the prior owner(s)? C & W Enterprises, Inc.
5. When did the change(s) in ownership occur? 7/19/2006

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 06/18/2008 (682343)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - 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  
JEFF DAVIDSON DBA C & W ONE  
STOP 12  
RN102438462

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-1125-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 Jeff Davidson dba C & W One Stop 12 ("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 convenience store with retail sales of gasoline at 117 South Broadway Avenue in Mertzon, Irion County, Texas (the "Facility").
2. The Respondent's four 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 June 23, 2008.
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 Nine Thousand Eight Hundred Eighty Dollars (\$9,880) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Thirty-Nine Dollars (\$239) of the



administrative penalty and One Thousand Nine Hundred Seventy-Six Dollars (\$1,976) 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.

The remaining amount of Seven Thousand Six Hundred Sixty-Five Dollars (\$7,665) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Nineteen Dollars (\$219) 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 inspect the cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on June 5, 2008. Specifically, the Respondent did not conduct the bimonthly inspections of the corrosion protection system.



2. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on June 5, 2008. Specifically, the triennial test had not been conducted.
3. Failed to monitor USTs for releases 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 June 5, 2008.
4. Failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on June 5, 2008.
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 June 5, 2008.
6. Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on June 5, 2008.

### 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: Jeff Davidson dba C & W One Stop 12, Docket No. 2008-1125-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. Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48;



- b. Within 30 days after the effective date of this Agreed Order:
- i. Install and implement a release detection method for the USTs and the piping associated with the USTs, and test the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
  - ii. Begin conducting bimonthly inspections of the cathodic protection system and ensure that the rectifier and other system components are functioning as designed, and conduct the required triennial testing of the cathodic protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49.
- c. 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 Nos. 2.a. through 2.b.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), 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.



Jeff Davidson dba C & W One Stop 12  
DOCKET NO. 2008-1125-PST-E  
Page 6

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 2/16/2009

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 11/23/08

  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Jeff Davidson dba C & W One Stop 12

\_\_\_\_\_  
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.

