

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2004-0342-PST-E TCEQ ID: RN101681252 CASE NO.: 13530
RESPONDENT NAME: TEOFILO R. GONZALEZ DBA MINI SUPER LAS PALMAS**

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: ¼ mile west of the intersection of Farm-to-Market Road 2221 and Minnesota Road, Mission, Hidalgo County, Texas</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</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 expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 20, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789 TCEQ Regional Contact: Mr. Jaime Garza, Waste Section Manager, Harlingen Regional Office, MC R-15, (956) 425-6010 Respondent: Mr. Teofilo R. Gonzalez, Mini Super Las Palmas, 107 San Jacinto Street, Mission, Texas 78572 Respondent's Attorney: Mr. William W. Thompson, III, Grissom & Thompson, L.L.P., 609 West 10th Street, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: January 15, 2003; March 10, 2004</p> <p>Date of NOE Relating to this Case: August 26, 2003</p> <p>Background Facts: The EDRP was filed October 5, 2005. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and a signed Agreed Order with initial payment was received January 15, 2009.</p> <p>Current Compliance Status: The Respondent owes past-due fees of \$468.20.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to conduct inventory control at a retail fuel dispensing facility [30 TEX. ADMIN. CODE § 334.48(c)]. Failed to have a release detection method capable of detecting a release from any part of the underground storage tank system [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(a) and (c)(1)]. Failed to have cathodic protection system tested by a corrosion specialist or corrosion technician once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)]. Failed to inspect the impressed current cathodic protection system at least every 60 days to ensure that the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C)]. 	<p>Total Assessed: \$46,725</p> <p>Total Deferred: \$43,125 <input type="checkbox"/> Expedited Settlement <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$100/\$3,500</p> <p>The Respondent has paid \$100 of the undeferred administrative penalty. The remaining amount of \$3,500 of the undeferred administrative penalty shall be payable in 35 monthly payments of \$100 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The ED recognizes that the Respondent no longer owns or operates the Facility.</p> <p>Technical Requirements:</p> <p>Within 60 days, the Respondent shall submit payment of all outstanding fees, including any associated penalties and interest.</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to file with the agency within 30 days from the date of the occurrence of the change or addition, an amended registration form [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>6. Failed to permanently tag, label, or mark the underground storage tank system with an identification number listed on the UST Registration and Self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>7. Failed to ensure that a delivery certificate is renewed by timely and proper submission of a new UST Registration and Self-certification form to the Commission [30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)].</p> <p>8. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before delivery of a regulated substance into an underground storage tank [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>9. Failed to maintain records pertaining to the underground storage tank system at the Facility and to provide those records to Commission personnel upon request [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>10. Failed to pay outstanding underground storage tank fees for TCEQ Financial Administration Account Number 0057001U [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

DATES			
PCW	21-Mar-2005	Screening	8-Mar-2004
Priority Due	6-Jul-2004	EPA Due	
RESPONDENT INFORMATION			
Respondent	Teofilo R. Gonzalez dba Mini Super Las Palmas		
Respondent/Site ID No(s)	Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252		
Facility/Site Region	15 - Harlingen	Major/Minor Source	Minor
CASE INFORMATION			
Enf./Case ID No(s)	Enforcement Case No. 13530		No. Violations
Docket No.	2004-0342-PST-E		9
Case Priority	3	Order Type	1660 without deferral
Enf. Coordinator	Cari Bing	EC's Team	Enforcement Team 8
Media Program(s)	Petroleum Storage Tank		
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$44,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement **Subtotals 2, 3 & 7** \$2,225

Notes: The respondent received one NOV (September 28, 2000) for the same and similar violations. +

Culpability 0% Enhancement **Subtotal 4** \$0

No Select Yes/No
 Notes: The respondent does not meet the culpability criteria. +

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
None of the above	X	(mark with small x)	+
Notes	The respondent has not achieved compliance.		

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

\$7,216	Total EB Amounts	*	Capped at the Total EB \$ Amount	
\$3,192	Approx. Cost of Compliance	=		

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$46,725

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

Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)

Notes: =

Final Penalty Amount \$46,725

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$46,725

DEFERRAL 0% Reduction **Adjustment** \$0

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

Notes: No deferral is recommended because this is not an expediated case. =

PAYABLE PENALTY **\$46,725**

Screening Date	8-Mar-2004	Docket Number	2004-0342-PST-E	PCW
Respondent	Teofilo R. Gonzalez dba Mini Super Las Palmas	Policy Revision 2 (09/02)		
Case ID No.	Enforcement Case No. 13530	PCW Revision 2/10/2004		
Respondent/Site ID No.	Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Cari Bing			
Site Address	1/4 mile west of the intersection of Farm-to-Market Road 2221 and Minnesota Road in Hidalgo County, Texas			

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>	1	5%
	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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

Compliance History Summary

Compliance History Notes
 The respondent received one NOV (September 28, 2000) for the same and similar violations.

Total Adjustment Percentage (Subtotals 2, 3 & 7)

Screening Date: 08-Mar-04 **Docket Number:** 2004-0342-PST-E **PCW**
Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No.: Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No.: Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute]: Petroleum Storage Tank
Enf. Coordinator: Cari Bing
Violation Number: 1
Primary Rule Cite: 30 Tex. Admin. Code § 334.48(c)
Secondary Cite(s):
Violation Description: Failure to conduct inventory control at a retail fuel dispensing facility.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

» **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes: Failure to conduct inventory control could result in the release of a significant amount of pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment: -\$7,500

Base Penalty Subtotal: \$2,500

Violation Events

Number of Violation Events: 5

<i>mark only one; use small x</i>	daily	
	monthly	
	quarterly	
	semiannual	x
	annual	
	single event	

Violation Base Penalty: \$12,500

Events Notes: Five semiannual events are recommended, calculated from the inspection date (01/15/2003) to the settlement deadline (03/10/2005), to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation:	Statutory Limit Test:
Estimated EB Amount (\$): \$3,060	Violation Final Penalty total: \$13,125
This Violation Final Assessed Penalty (adjusted for limits): \$13,125	

Economic Benefit Worksheet

Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas
ID Number(s): Enforcement Case No. 13530
Media [Statute]: Petroleum Storage Tank
Violation Number: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel	\$1,092	15-Jan-2003	15-Sep-2005	2.7	\$146	\$2,914	\$3,060
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost is the annual cost for personnel of the Facility to conduct inventory control. Economic benefit is calculated from the date of the inspection (January 15, 2003) to the estimated date of compliance (September 15, 2005)

Approx Cost of Compliance

TOTAL

Screening Date: 08-Mar-04 **Docket Number:** 2004-0342-PST-E **PCW**
Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No.: Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No.: Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute]: Petroleum Storage Tank
Enf. Coordinator: Cari Bing
Violation Number:
Primary Rule Cite:
Secondary Cite(s):
Violation Description:

Base Penalty

» **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes:

Adjustment:

Base Penalty Subtotal:

Violation Events

Number of Violation Events:

mark only one; use small x		daily	monthly	quarterly	semiannual	annual	single event
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Violation Base Penalty:

Events Notes:

Economic Benefit (EB) for this violation: **Statutory Limit Test**

Estimated EB Amount (\$): **Violation Final Penalty total:**

This Violation Final Assessed Penalty (adjusted for limits):

Economic Benefit Worksheet

Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas

ID Number(s): Enforcement Case No. 13530

Media [Statute]: Petroleum Storage Tank

Violation Number: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$1,200	15-Jan-2003	15-Sep-2005	2.7	\$160	\$3,202	\$3,362
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost is the annual cost for monthly monitoring using statistical inventory reconciliation. Economic benefit is calculated from the date of the inspection (January 15, 2003) to the estimated date of compliance (September 15, 2005)

Approx Cost of Compliance

TOTAL

Screening Date: 08-Mar-04 **Docket Number:** 2004-0342-PST-E **PCW**
Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No.: Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No.: Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute]: Petroleum Storage Tank
Enf. Coordinator: Cari Bing
Violation Number: 3
Primary Rule Cite: 30 Tex. Admin. Code § 334.49(c)(4) and 334.49(c)(2)(C)
Secondary Cite(s): Tex. Water Code § 26.3475(d)
Violation Description: Failure to have cathodic protection system tested by a corrosion specialist or corrosion technician once every three years. Failure to inspect the impressed current cathodic protection system at least every 60 days to ensure that the rectifier and other system components are operating properly.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential	x			Percent 25%

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification				Percent

Matrix Notes: Failure to test and inspect the impressed cathodic protection system could result in the underground storage tanks corroding and leaking petroleum product at levels which would exceed levels that are protective of human health or environmental receptors.

Adjustment: -\$7,500

Base Penalty Subtotal: \$2,500

Violation Events

Number of Violation Events: 5

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty: \$12,500

Events Notes: Five semiannual events are recommended for the time frame from the inspection date (01/15/2003) to the settlement deadline (03/10/2005), to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$): \$740	Violation Final Penalty total: \$13,125
This Violation Final Assessed Penalty (adjusted for limits): \$13,125	

Economic Benefit Worksheet

Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas
ID Number(s): Enforcement Case No. 13530
Media [Statute]: Petroleum Storage Tank
Violation Number: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$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	Start Date	End Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel	\$100	15-Jan-2003	15-Sep-2005	2.7	\$13	\$267	\$280
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$400	15-Jan-2003	15-Sep-2005	3.0	\$60	\$400	\$460
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for Facility personnel to inspect the cathodic protection system at least every 60 days. Estimated cost to have cathodic protection system tested by a corrosion specialist or corrosion technician once every three years. Economic benefit is calculated from the date of the inspection (January 15, 2003) to the date of estimated compliance (September 15, 2005).

Approx Cost of Compliance \$500

TOTAL \$740

Screening Date: 08-Mar-04 **Docket Number:** 2004-0342-PST-E **PCW**
Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No.: Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No.: Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute]: Petroleum Storage Tank
Enf. Coordinator: Cari Bing
Violation Number: 4
Primary Rule Cite: 30 Tex. Admin. Code § 334.7(d)(3)
Secondary Cite(s):
Violation Description: Failure to file with the agency within 30 days from the date of the occurrence of the change or addition, an amended registration form.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential				Percent

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification				
		x			Percent

Matrix Notes: 100 percent of the rule requirement was not met.

Adjustment -\$9,000
Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events: 1

<i>mark only one; use small x</i>	daily					
	monthly					
	quarterly					
	semiannual					
	annual					
	single event	x				

Violation Base Penalty \$1,000

Events Notes: One single event is recommended based on the January 15, 2003 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$13	Violation Final Penalty total \$1,050
This Violation Final Assessed Penalty (adjusted for limits) \$1,050	

Economic Benefit Worksheet

Respondent Teofilo R. Gonzalez dba Mini Super Las Palmas
ID Number(s) Enforcement Case No. 13530
Media [Statute] Petroleum Storage Tank
Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$100	15-Jan-2003	15-Sep-2005	2.7	\$13	n/a	\$13

Notes for DELAYED costs

Estimated cost for preparation and submittal of a underground storage tank registration form updating the current status of the underground storage tank system. Economic benefit is calculated from the date of the inspection (January 15, 2003) to the date of estimated compliance (September 15, 2005).

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$100

TOTAL \$13

Screening Date: 08-Mar-04 **Docket Number:** 2004-0342-PST-E **PCW**
Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No.: Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No.: Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute]: Petroleum Storage Tank
Enf. Coordinator: Cari Bing
Violation Number: 5
Primary Rule Cite: 30 Tex. Admin. Code § 334.8(c)(5)(C)
Secondary Cite(s):
Violation Description: Failure to permanently tag, label, or mark the underground storage tank system with an identification number listed on the underground storage tank registration and self-certification form.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent <input type="text"/>
	Potential				

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification	x			Percent <input type="text" value="10%"/>

Matrix Notes: 100 percent of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events: 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes: One single event is recommended based on the January 15, 2003 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) <input type="text" value="\$7"/>	Violation Final Penalty total \$1,050
This Violation Final Assessed Penalty (adjusted for limits) \$1,050	

Economic Benefit Worksheet

Respondent Teofilo R. Gonzalez dba Mini Super Las Palmas
ID Number(s) Enforcement Case No. 13530
Media [Statute] Petroleum Storage Tank
Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$50	15-Jan-2003	15-Sep-2005	2.7	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to tag, label, or mark the underground storage tank system. Economic benefit is calculated from the date of the inspection (January 15, 2003) to the date of estimated compliance (September 15, 2005).

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$50

TOTAL \$7

Screening Date 08-Mar-04 **Docket Number** 2004-0342-PST-E **PCW**
Respondent Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No. Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Cari Bing
Violation Number 6
Primary Rule Cite 30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)
Secondary Cite(s)
Violation Description Failure to ensure that a delivery certificate is renewed by timely and proper submission of a new underground storage tank Registration and Self-Certification Form to the Commission.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential				Percent

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification	x			Percent 10%

Matrix Notes 100 percent of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes One single event is recommended based on the January 15, 2003 investigation.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$0 **Violation Final Penalty total** \$1,050

This Violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas
ID Number(s): Enforcement Case No. 13530
Media [Statute]: Petroleum Storage Tank
Violation Number: 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit is included in Violation number four.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

Screening Date 08-Mar-04 **Docket Number** 2004-0342-PST-E **PCW**
Respondent Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No. Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Cari Bing
Violation Number
Primary Rule Cite 30 Tex. Admin. Code §334.8(c)(5)(A)(i)
Secondary Cite(s) Tex. Water Code § 26.3467(a)
Violation Description Failure to make available to a common carrier a valid, current TCEQ delivery certificate before delivery of a regulated substance into a underground storage tank can be accepted. Specifically, during the investigation, it was documented that the respondent did not provide the common carrier with a delivery certificate prior to receiving fuel on the dates of February 06, 2002; March 25, 2002; October 07, 2002; October 16, 2002; October 22, 2002; October 26, 2002.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

» **Programmatic Matrix**

		Major	Moderate	Minor	
OR	Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes
 By failing to make available to a common carrier a valid, current delivery certificate prior to receiving fuel could allow the deposit of a regulated substance into an unregistered underground storage tank; therefore, human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment

Base Penalty Subtotal \$500

Violation Events

Number of Violation Events

mark only one; use small x

daily	<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

Events Notes
 Six single events are recommended based on deliveries of gasoline accepted by the respondent on documented during the January 15, 2003 investigation date.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) **Violation Final Penalty total**

This Violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Teofilo R. Gonzalez dba Mini Super Las Palmas
ID Number(s): Enforcement Case No. 13530
Media [Statute]: Petroleum Storage Tank
Violation Number: 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic Benefit is included in violation number four.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

Screening Date 08-Mar-04 **Docket Number** 2004-0342-PST-E **PCW**
Respondent Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No. Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Cari Bing
Violation Number 8
Primary Rule Cite 30 Tex. Admin. Code 334.10(b)
Secondary Cite(s)
Violation Description Failure to maintain records pertaining to the underground storage tank system at the Facility and to provide those records to Commission personnel upon request.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

OR

» **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes: 100 percent of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes: One single event is recommended based on the January 15, 2003 investigation.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$33 **Violation Final Penalty total** \$1,050

This Violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Teofilo R. Gonzalez dba Mini Super Las Palmas
ID Number(s) Enforcement Case No. 13530
Media [Statute] Petroleum Storage Tank
Violation Number 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$250	15-Jan-2003	15-Sep-2005	2.7	\$33	n/a	\$33
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to establish and maintain all required records relating to the Facility's underground storage tank system. Economic benefit is calculated from the date of the inspection (January 15, 2003) to the estimated date of compliance (September 15, 2005).

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costsApprox Cost of Compliance **TOTAL**

Screening Date 08-Mar-04 **Docket Number** 2004-0342-PST-E **PCW**
Respondent Teofilo R. Gonzalez dba Mini Super Las Palmas **Policy Revision 2 (09/02)**
Case ID No. Enforcement Case No. 13530 **PCW Revision 2/10/2004**
Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 57189; Regulated Entity ID No. RN101681252
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Cari Bing
Violation Number 9
Primary Rule Cite 30 Tex. Admin. Code § 334.22(a)
Secondary Cite(s) Tex. Water Code § 5.702
Violation Description Failed to pay outstanding underground storage tank fees for TCEQ Financial Administration Account No. 0057001U as documented during a record review conducted on March 10, 2004.

Base Penalty \$10,000

» **Environmental, Property, and Human Health Matrix**

		Harm			
Release	Major	Moderate	Minor		
OR Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>

» **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>

Matrix Notes

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

mark only one; use small x

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"/>

Violation Base Penalty \$0

Events Notes No additional administrative penalty was calculated for this violation as penalties and interest will be assessed during the next billing cycle.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$0 **Violation Final Penalty total** \$0

This Violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Teofilo R. Gonzalez dba Mini Super Las Palmas
ID Number(s) Enforcement Case No. 13530
Media [Statute] Petroleum Storage Tank
Violation Number 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$0

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator: CN600908610 GONZALEZ, TEOFILO R Classification: AVERAGE Rating: 3.000

Regulated Entity: RN101681252 MINI SUPER LAS PALMAS Classification: AVERAGE Site Rating: 3.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 57189
REGISTRATION

Location: 1/4 mile west of intersection of 7 Mile Line (FM 2221) and Minnesota Road, Mission, TX 78572 Rating Date: 9/1/03 Repeat Violator: NO

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: March 29, 2004

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 15, 1999 to March 15, 2004

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Cari Bing Phone: (512) 239-1445

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? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

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 dates of investigations.

- 1 09/13/2000
- 2 08/28/2003

E. Written notices of violations (NOV).

Date: 09/28/2000

Self Report? NO

Citation:

30 TAC Chapter 37, SubChapter I 37.815(a)[G]

Classification: Minor

Description: Failure to demonstrate the required financial responsibility 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 UST's.

Self Report? NO

Citation:

30 TAC Chapter 334, SubChapter C 334.48(c)

Classification: Minor

Description: Failure to conduct effective manual or automatic inventory control procedures for all UST systems at retail service-stations, regardless-of-which-method-of-release-detection-is-used-for-compliance-with-30-Tex.-Admin.-Code 334.50 (relating to Release Detection.)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter C 334.50(b)(2)
Description: Failure to monitor piping in a manner designed to detect releases from any portion of the UST's piping system.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
Description: Failure to monitor UST's for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
Description: Failure to provide amended registration for any change or additional information regarding UST's within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(A)
Description: Failure to have records available for inspection.

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
TEOFILO R. GONZALEZ DBA
MINI SUPER LAS PALMAS,
RN101681252

§
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§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2004-0342-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Teofilo R. Gonzalez dba Mini Super Las Palmas ("Mr. Gonzalez") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Gonzalez, represented by Mr. William W. Thompson, III of the law firm of Grissom & Thompson, L.L.P., appear before the Commission and together stipulate that:

1. At the time of the violations, Mr. Gonzalez owned a convenience store with retail sales of gasoline located 1/4 mile west of the intersection of Farm-to-Market Road 2221 and Minnesota Road, Mission, Hidalgo County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
3. The Commission and Mr. Gonzalez agree that the Commission has jurisdiction to enter into this Agreed Order, and that Mr. Gonzalez is subject to the Commission's jurisdiction.
4. Mr. Gonzalez received notice of the violations alleged in Section II ("Allegations") on or about August 31, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Gonzalez of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of forty-six thousand seven hundred twenty-five dollars (\$46,725.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Mr. Gonzalez and determined that Mr. Gonzalez is unable to pay part of the administrative penalty. Therefore, forty-three thousand one hundred twenty-five dollars (\$43,125.00) of the penalty is deferred contingent upon Mr. Gonzalez'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 Mr. Gonzalez fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Gonzalez to pay all or part of the deferred penalty.

Mr. Gonzalez has paid one hundred dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in 35 monthly payments of one hundred dollars (\$100.00) 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 Mr. Gonzalez fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 Mr. Gonzalez to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Gonzalez to timely and satisfactorily comply with all of 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 Mr. Gonzalez have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Gonzalez no longer owns the Facility because it was foreclosed on by the bank in January 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Gonzalez has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Gonzalez is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct inventory control at a retail fuel dispensing facility as documented on January 15, 2003.
2. 30 TEX. ADMIN. CODE § 334.50(a)(1)(A); and TEX. WATER CODE §§ 26.3475(a) and (c)(1) by failing to have a release detection method capable of detecting a release from any part of the underground storage tank system as documented on January 15, 2003.
3. 30 TEX. ADMIN. CODE §§ 334.49(c)(4) and 334.49(c)(2)(C), and TEX. WATER CODE § 26.3475(d) by failing to have the cathodic protection system tested by a corrosion specialist or corrosion technician once every three years, and by failing to inspect the impressed current cathodic protection system at least every 60 days to ensure that the rectifier and other system components are operating properly as documented on January 15, 2003.
4. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to file with the agency within 30 days from the date of the occurrence of the change or addition, an amended registration form as documented on January 15, 2003.
5. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to permanently tag, label, or mark the underground storage tank system with an identification number listed on the underground storage tank Registration and Self-certification form as documented on January 15, 2003.
6. 30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii) by failing to ensure that a delivery certificate is renewed by timely and proper submission of a new underground storage tank Registration and Self-certification form to the Commission as documented on January 15, 2003.
7. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before delivery of a regulated substance into an underground storage tank. Specifically, the respondent did not provide to a common carrier a delivery certificate prior to receiving fuel on February 6, 2002, March 25, 2002, October 7, 2002, October 16, 2002, October 22, 2002, and October 26, 2002 as documented on January 15, 2003.

8. 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain records pertaining to the underground storage tank system at the Facility and to provide those records to Commission personnel upon request as documented on January 15, 2003.
9. 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702 by failing to pay outstanding underground storage tank fees for TCEQ Financial Administration Account Number 0057001U as documented on March 10, 2004.

III. DENIALS

Mr. Gonzalez generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Gonzalez pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Gonzalez'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Teofilo R. Gonzalez dba Mini Super Las Palmas, Docket No. 2004-0342-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. Within 60 days after the effective date of this Agreed Order, Mr. Gonzalez shall submit payment of all outstanding fees, including any associated penalties and interest and with the notation "Teofilo R. Gonzalez - Financial Account No. 0057001U" 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

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Gonzalez. Mr. Gonzalez 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 Mr. Gonzalez 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, Mr. Gonzalez's failure to comply is not a violation of this Agreed Order. Mr. Gonzalez shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Gonzalez shall notify the Executive Director within seven days after Mr. Gonzalez 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 Mr. Gonzalez shall be made in writing to the Executive Director. Extensions are not effective until Mr. Gonzalez 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 Mr. Gonzalez 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Gonzalez, or three days after the date on which the Commission mails notice of the Order to Mr. Gonzalez, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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TCEQ Legal Services

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

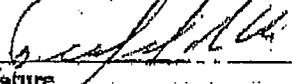
3/16/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking civil or relief as authorized by law.

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


Signature

Jan - 15 - 2009
Date

TEOFILO R GONZALEZ
Name (Printed or typed)
Authorized representative of
Teofilo R. Gonzalez dba Mini Super Las Palmas

OWNER
Title