

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0061-PST-E **TCEQ ID:** RN101492908 **CASE NO.:** 37023

**RESPONDENT NAME:** S.W.G., Limited Partnership dba Jonestown Liberty Mart

<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> Jonestown Liberty Mart, 18660 Farm-to-Market Road 1431, Jonestown, Travis 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 May 11, 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. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Frank Spinoso, Owner/Partner, S.W.G., Limited Partnership dba Jonestown Liberty Mart, 18660 Farm-to-Market Road 1431, Jonestown, Texas 78645  <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>                      November 5, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b>                      January 8, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted [TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].</p> <p>2) 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>3) Failure to provide proper 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>4) 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>5) Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p>	<p><b>Total Assessed:</b> \$7,419</p> <p><b>Total Deferred:</b> \$1,483  <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 to General Revenue:</b> \$5,936</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 checked="" 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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Successfully conducted the required triennial testing of the cathodic protection system on November 10, 2008;</p> <p>b. Successfully conducted the required annual piping tightness and line leak detector tests on November 14, 2008; and</p> <p>c. Removed water and debris from the spill buckets and began maintaining them in good working condition on November 14, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, install and implement a release detection method for all USTs at the Facility and begin conducting reconciliation of inventory control records; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

DOCKET NO.: 2009-0061-PST-E

<p>6) Failure to ensure that all spill and overflow prevention devices are maintained in good operating condition and are inspected and serviced as per manufacturers' specifications. Specifically, all spill buckets were full of water and debris [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p>		
--	--	--

Additional ID No(s): 63797





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	12-Jan-2009	Screening	14-Jan-2009	EPA Due	
	PCW	14-Jan-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	S.W.G., Limited Partnership dba Jonestown Liberty Mart
Reg. Ent. Ref. No.	RN101492908
Facility/Site Region	11-Austin
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37023	No. of Violations	3
Docket No.	2009-0061-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rajesh Acharya
		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 \$6,000

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

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

**Compliance History** 0.0% Enhancement Subtotals 2, 3, & 7 \$0

Notes: No adjustment due to compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5 \$875

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

Total EB Amounts	\$2,350
Approx. Cost of Compliance	\$3,600

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal \$5,125

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 44.8% Adjustment \$2,294

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 2.

**Final Penalty Amount** \$7,419

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$7,419

**DEFERRAL** 20.0% Reduction Adjustment -\$1,483

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$5,936

Screening Date 14-Jan-2009

Docket No. 2009-0061-PST-E

PCW

Respondent S.W.G., Limited Partnership dba Jonestown Liberty Mart

Policy Revision 2 (September 2002)

Case ID No. 37023

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101492908

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

**Compliance History Worksheet**

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

<b>Screening Date</b> 14-Jan-2009	<b>Docket No.</b> 2009-0061-PST-E	<b>PCW</b>																			
<b>Respondent</b> S.W.G., Limited Partnership dba Jonestown Liberty Mart		<i>Policy Revision 2 (September 2002)</i>																			
<b>Case ID No.</b> 37023		<i>PCW Revision October 30, 2008</i>																			
<b>Reg. Ent. Reference No.</b> RN101492908																					
<b>Media [Statute]</b> Petroleum Storage Tank																					
<b>Enf. Coordinator</b> Rajesh Acharya																					
<b>Violation Number</b> <input type="text" value="1"/>																					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.49(c)(4) and Tex. Water Code § 26.3475(d)																				
<b>Violation Description</b>	Failed to inspect and test the cathodic protection system 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>																					
OR	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: right;"><b>Percent</b> <input type="text" value="25%"/></td> </tr> </table>		Harm				Release	Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		Potential	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
	Harm																				
Release	Major	Moderate	Minor																		
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>																		
Potential	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>																	
<b>&gt;&gt; Programmatic Matrix</b>																					
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td style="text-align: right;"><b>Percent</b> <input type="text" value="0%"/></td> </tr> </table>		Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="0%"/>										
	Major	Moderate	Minor																		
Falsification	<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="1095"/> <b>Number of violation days</b>																			
<i>mark only one with an x</i>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</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 style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>					
daily	<input type="text"/>																				
weekly	<input type="text"/>																				
monthly	<input type="text"/>																				
quarterly	<input type="text"/>																				
semiannual	<input type="text"/>																				
annual	<input type="text"/>																				
single event	x																				
	One single event is recommended for the three -year period preceding the November 5, 2008 investigation.																				
<b>Good Faith Efforts to Comply</b>																					
	<input type="text" value="25.0%"/> <b>Reduction</b>	<input type="text" value="\$625"/>																			
	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td><input type="text"/></td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	x	<input type="text"/>	N/A	<input type="text"/>	(mark with x)								
	Before NOV	NOV to EDPRP/Settlement Offer																			
Extraordinary	<input type="text"/>	<input type="text"/>																			
Ordinary	x	<input type="text"/>																			
N/A	<input type="text"/>	(mark with x)																			
<b>Notes</b>	The Respondent came into compliance on November 10, 2008.																				
	<b>Violation Subtotal</b>	<input type="text" value="\$1,875"/>																			
<b>Economic Benefit (EB) for this violation</b>																					
	<b>Estimated EB Amount</b> <input type="text" value="\$1,197"/>	<b>Statutory Limit Test</b>																			
		<b>Violation Final Penalty Total</b> <input type="text" value="\$2,714"/>																			
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,714"/>																			

## Economic Benefit Worksheet

**Respondent** S.W.G., Limited Partnership dba Jonestown Liberty Mart  
**Case ID No.** 37023  
**Reg. Ent. Reference No.** RN101492908  
**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
--	-----------	---------------	------------	-----	----------------	---------------	-----------

Item Description No commas or \$

**Delayed Costs**

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

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	5-Nov-2005	10-Nov-2008	3.93	\$197	\$1,000	\$1,197
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for completing the triennial test. Date Required is three years prior to the investigation date. Final Date is the compliance date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,197

<b>Screening Date</b> 14-Jan-2009	<b>Docket No.</b> 2009-0061-PST-E	<b>PCW</b>			
<b>Respondent</b> S.W.G., Limited Partnership dba Jonestown Liberty Mart	<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 37023	<small>PCW Revision October 30, 2008</small>				
<b>Reg. Ent. Reference No.</b> RN101492908					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Rajesh Acharya					
<b>Violation Number</b> 2					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii) 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 proper release detection for the piping associated with the USTs. Failed to test the line leak detectors at least once per year for performance and operational reliability. Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.				
<b>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Potential	x	<input type="checkbox"/>	<input type="checkbox"/>		
<b>Percent</b>		25%			
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>		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>		\$7,500			
\$2,500					
<b>Violation Events</b>					
<b>Number of Violation Events</b>		1		<b>Number of violation days</b>	
		70			
<small>mark only one with an x</small>	daily	<input type="checkbox"/>			
	weekly	<input type="checkbox"/>			
	monthly	<input type="checkbox"/>			
	quarterly	x			
	semiannual	<input type="checkbox"/>			
	annual	<input type="checkbox"/>			
	single event	<input type="checkbox"/>			
<b>Violation Base Penalty</b>		\$2,500			
One quarterly event is recommended based on documentation of the violation during the November 5, 2008 investigation to the January 14, 2009 screening date.					
<b>Good Faith Efforts to Comply</b>		0.0% Reduction		\$0	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>				
Ordinary	<input type="checkbox"/>				
N/A	x	(mark with x)			
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.				
<b>Violation Subtotal</b>		\$2,500			
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$1,153		<b>Violation Final Penalty Total</b>	
				\$3,619	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$3,619	

### Economic Benefit Worksheet

**Respondent** S.W.G., Limited Partnership dba Jonestown Liberty Mart  
**Case ID No.** 37023  
**Reg. Ent. Reference No.** RN101492908  
**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	5-Nov-2008	5-Aug-2009	0.75	\$56	n/a	\$56

**Notes for DELAYED costs**  
 Estimated cost to provide release detection for the USTs including reconciliation of inventory control records. Date Required is the date of 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]	\$1,000	5-Nov-2007	14-Nov-2008	1.95	\$97	\$1,000	\$1,097
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 Estimated avoided cost for the annual piping tightness and line leak detector tests. Date Required is one year prior to the investigation date. Final Date is the compliance date.

**Approx. Cost of Compliance** \$2,500 **TOTAL** \$1,153

<b>Screening Date</b> 14-Jan-2009	<b>Docket No.</b> 2009-0061-PST-E	<b>PCW</b>
<b>Respondent</b> S.W.G., Limited Partnership dba Jonestown Liberty Mart		<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 37023		<small>PCW Revision October 30, 2008</small>
<b>Reg. Ent. Reference No.</b> RN101492908		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Rajesh Acharya		
<b>Violation Number</b> 3		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)	
<b>Violation Description</b>	Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition and are inspected and serviced as per manufacturers' specifications. Specifically, all spill buckets were full of water and debris.	
	<b>Base Penalty</b>	\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>		
<b>OR</b>	<b>Harm</b>	
	Major      Moderate      Minor	
Release		
Actual	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	x
	<b>Percent</b>	10%
<b>&gt;&gt; Programmatic Matrix</b>		
	Falsification      Major      Moderate      Minor	
	<input type="text"/>	<input type="text"/>
	<b>Percent</b>	0%
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.	
	<b>Adjustment</b>	\$9,000
		\$1,000
<b>Violation Events</b>		
<b>Number of Violation Events</b>	1	<b>Number of violation days</b> 9
<small>mark only one with an x</small>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	x
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>
	<b>Violation Base Penalty</b>	\$1,000
	One quarterly event is recommended based on documentation of the violation during the November 5, 2008 investigation to the November 14, 2008 compliance date.	
<b>Good Faith Efforts to Comply</b>	25.0% Reduction	\$250
	Before NOV      NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	x	<input type="text"/>
N/A	<input type="text"/>	(mark with x)
<b>Notes</b>	The Respondent came into compliance on November 14, 2008.	
	<b>Violation Subtotal</b>	\$750
<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b> \$1,086
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$1,086	

## Economic Benefit Worksheet

**Respondent** S.W.G., Limited Partnership dba Jonestown Liberty Mart  
**Case ID No.** 37023  
**Reg. Ent. Reference No.** RN101492908  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	5-Nov-2008	14-Nov-2008	0.02	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove water and debris from the spill buckets and maintain the overfill protection equipment in proper working condition. Date Required is the investigation date. Final Date is the compliance date.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602713877 S.W.G., Limited Partnership	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101492908 Jonestown Liberty Mart	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	63797
Location:	18660 FM 1431, JONESTOWN, TX, 78645		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	January 15, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 15, 2004 to January 15, 2009		

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

Name: Rajesh Acharya Phone: (512) 239-0577

### 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?    | No  |
| 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 |
| 6. Rating Date: 9/1/2008 Repeat Violator: NO   |     |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
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. 11/05/2008 (707513)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
S.W.G., LIMITED PARTNERSHIP  
DBA JONESTOWN LIBERTY MART  
RN101492908

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0061-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 S.W.G., Limited Partnership dba Jonestown Liberty Mart ("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 18660 Farm-to-Market Road 1431 in Jonestown, Travis County, Texas (the "Facility").
2. The Respondent's two 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 January 13, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Four Hundred Nineteen Dollars (\$7,419) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Nine Hundred Thirty-Six Dollars

(\$5,936) of the administrative penalty and One Thousand Four Hundred Eighty-Three Dollars (\$1,483) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. 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.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Successfully conducted the required triennial testing of the cathodic protection system on November 10, 2008;
  - b. Successfully conducted the required annual piping tightness and line leak detector tests on November 14, 2008; and
  - c. Removed water and debris from the spill buckets and began maintaining them in good working condition on November 14, 2008.
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 and test the cathodic protection system 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) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on November 5, 2008. Specifically, the triennial test had not been conducted.
2. 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 November 5, 2008.

3. Failed to provide proper 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 November 5, 2008.
4. 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 November 5, 2008.
5. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on November 5, 2008.
6. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition and are inspected and serviced as per manufacturers' specifications, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on November 5, 2008. Specifically, all spill buckets were full of water and debris.

### 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: S.W.G., Limited Partnership dba Jonestown Liberty Mart, Docket No. 2009-0061-PST-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, install and implement a release detection method for all USTs at the Facility and begin conducting reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

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

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

S.W.G., Limited Partnership dba Jonestown Liberty Mart  
DOCKET NO. 2009-0061-PST-E  
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sedlin  
For the Executive Director

4/13/2009  
Date

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

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

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

[Signature]  
Signature

3/11/2009  
Date

FRANK SPINOSA  
Name (Printed or typed)  
Authorized Representative of  
S.W.G., Limited Partnership dba Jonestown Liberty Mart

Owner/Partner  
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.