

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-1795-PST-E **TCEQ ID:** RN100823830 **CASE NO.:** 36824
RESPONDENT NAME: CAHILL INVESTMENTS, INC. dba Resler Chevron

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: Resler Chevron, 6969 North Mesa Street, El Paso, El Paso County</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 has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 27, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Michael Cahill, President, CAHILL INVESTMENTS, INC., 3739 East Bell Road, Phoenix, Arizona 85032 Mr. Mirka Black, Office & Financial Manager, CAHILL INVESTMENTS, INC., 3739 East Bell Road, Phoenix, Arizona 85032 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 15, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 12, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to maintain the required underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failure to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate the current method of release detection and type of overfill prevention being implemented at the Station [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>3) Failure to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2007 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>4) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Station received 57</p>	<p>Total Assessed: \$8,125</p> <p>Total Deferred: \$1,625 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$200 (remaining \$6,300 due in 35 monthly payments of \$180 each)</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. On November 4, 2008, the TCEQ El Paso Regional Office verified that the required UST records are being maintained at the Station;</p> <p>b. The TCEQ El Paso Regional Office verified that the Respondent submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on November 4, 2008;</p> <p>c. On November 4, 2008, the TCEQ El Paso Regional Office verified that the Respondent obtained a valid certificate of insurance; and</p> <p>d. The TCEQ El Paso Regional Office verified that the hoses had been replaced and the vapor guards repaired on November 4, 2008.</p>

<p>deliveries of fuel without having a current delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>5) Failure to maintain a Certificate of Insurance as specified in the rules. Specifically, a policy was in place, but no certificate was present at the Station as required by the rule [30 TEX. ADMIN. CODE § 37.835(b)(2)].</p> <p>6) Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to, absence or disconnection of any component that is a part of the approved system. Specifically, the hoses were severely worn and torn at the nozzle bases of dispenser nos. 1, 3, 5, 9, and 11, and the vapor guards were inverted on the nozzles for dispenser nos. 8 and 10 [30 TEX. ADMIN. CODE § 115.242(3) and (3)(E) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): PST ID No. 17854



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	17-Nov-2008	Screening	19-Nov-2008	EPA Due	
	PCW	19-Nov-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	CAHILL INVESTMENTS, INC. dba Resler Chevron
Reg. Ent. Ref. No.	RN100823830
Facility/Site Region	6-El Paso
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	36824	No. of Violations	5
Docket No.	2008-1795-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
Admin. Penalty \$	Limit Minimum \$0	EC's Team	Enforcement Team 6
	Maximum \$10,000		

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes

Culpability Enhancement Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 19-Nov-2008

Docket No. 2008-1795-PST-E

PCW

Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron

Policy Revision 2 (September 2002)

Case ID No. 36824

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100823830

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

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

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

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

Screening Date 19-Nov-2008	Docket No. 2008-1795-PST-E	PCW	
Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 36824		<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN100823830			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Judy Kluge			
Violation Number	<input type="text" value="1"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.10(b)"/>		
Violation Description	<input type="text" value="Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel."/>		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent		<input type="text" value="0%"/>	
>> Programmatic Matrix			
Falsification			
Major	Moderate	Minor	
<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
Percent		<input type="text" value="25%"/>	
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>		
Adjustment		<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>	
Violation Events			
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="20"/> Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	
<input type="text" value="One single event is recommended based on documentation of the violation during the October 15, 2008 investigation."/>			<input type="text" value="\$2,500"/>
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$625"/>
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text" value="x"/>	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>	
Notes	<input type="text" value="The Respondent came into compliance on November 4, 2008."/>		
Violation Subtotal		<input type="text" value="\$1,875"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$1"/>	Violation Final Penalty Total
			<input type="text" value="\$1,625"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,625"/>

Economic Benefit Worksheet

Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron
Case ID No. 36824
Reg. Ent. Reference No. RN100823830
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	15-Oct-2008	4-Nov-2008	0.05	\$1	n/a	\$1
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 maintain all UST records. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$500 TOTAL \$1

Screening Date 19-Nov-2008	Docket No. 2008-1795-PST-E	PCW					
Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron	<small>Policy Revision 2 (September 2002)</small>						
Case ID No. 36824	<small>PCW Revision October 30, 2008</small>						
Reg. Ent. Reference No. RN100823830							
Media [Statute] Petroleum Storage Tank							
Enf. Coordinator Judy Kluge							
Violation Number <input type="text" value="2"/>							
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 334.7(d)(3) and 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)"/>						
Violation Description	<input type="text" value="Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate the current method of release detection and type of overfill prevention being implemented at the Station. Also, failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2007."/>						
Base Penalty		<input type="text" value="\$10,000"/>					
>> Environmental, Property and Human Health Matrix							
OR	Harm			Percent <input type="text" value="0%"/>			
	Release	Major	Moderate		Minor		
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>		
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>				
>> Programmatic Matrix							
			Falsification	Major	Moderate	Minor	Percent <input type="text" value="25%"/>
			<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>						
Adjustment							<input type="text" value="\$7,500"/>
							<input type="text" value="\$2,500"/>
Violation Events							
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		<input type="text" value="432"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>					
	weekly	<input type="text"/>					
	monthly	<input type="text"/>					
	quarterly	<input type="text"/>					
	semiannual	<input type="text"/>					
	annual	<input type="text"/>					
	single event	<input checked="" type="checkbox"/>					
<input type="text" value="One single event is recommended."/>							Violation Base Penalty <input type="text" value="\$2,500"/>
Good Faith Efforts to Comply			25.0% Reduction		<input type="text" value="\$625"/>		
			<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>			
Extraordinary	<input type="text"/>		<input type="text"/>				
Ordinary	x		<input type="text"/>				
N/A	<input type="text"/>		<small>(mark with x)</small>				
Notes	<input type="text" value="The Respondent came into compliance on November 4, 2008."/>						
Violation Subtotal							<input type="text" value="\$1,875"/>
Economic Benefit (EB) for this violation				Statutory Limit Test			
Estimated EB Amount <input type="text" value="\$6"/>				Violation Final Penalty Total <input type="text" value="\$1,625"/>			
This violation Final Assessed Penalty (adjusted for limits)							<input type="text" value="\$1,625"/>

Economic Benefit Worksheet

Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron
Case ID No. 36824
Reg. Ent. Reference No. RN100823830
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
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)	\$100	1-Aug-2007	4-Nov-2008	1.26	\$6	n/a

Notes for DELAYED costs
 The delayed cost includes the estimated amount required to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days before the expiration date and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$6

Screening Date 19-Nov-2008	Docket No. 2008-1795-PST-E	PCW	
Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 38824	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN100823830			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Judy Kluge			
Violation Number <input type="text" value="3"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)"/>		
Violation Description	<input type="text" value="Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Station received 57 deliveries of fuel without having a current delivery certificate."/>		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Release	Actual	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
>>Programmatic Matrix			
			Percent <input type="text" value="25%"/>
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>		
Adjustment		<input type="text" value="\$7,500"/>	
			<input type="text" value="\$2,500"/>
Violation Events			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="20"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input checked="" type="checkbox"/>	
<input type="text" value="One single event is recommended."/>			
Good Faith Efforts to Comply		25.0% Reduction	\$625
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>	
Notes	<input type="text" value="The Respondent came into compliance on November 4, 2008."/>		
Violation Subtotal		<input type="text" value="\$1,875"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount <input type="text" value="\$0"/>		Violation Final Penalty Total <input type="text" value="\$1,625"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,625"/>	

Economic Benefit Worksheet

Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron
Case ID No. 36824
Reg. Ent. Reference No. RN100823830
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
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No commas or \$

Delayed Costs

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

Notes for DELAYED costs

Economic benefit included in Violation No. 2.

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

\$0

TOTAL

\$0

Screening Date 19-Nov-2008	Docket No. 2008-1795-PST-E	PCW		
Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36824	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN100823830				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number <input type="text" value="4"/>				
Rule Cite(s)	30 Tex. Admin. Code § 37.835(b)(2)			
Violation Description	Failed to maintain a Certificate of Insurance as specified in the rules. Specifically, a policy was in place, but no certificate was present at the Station as required by the rule.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>	
Matrix Notes	100% of the rule requirement was not met.			
		Adjustment	<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="20"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	<input type="text"/>	
	weekly	<input type="text"/>	<input type="text"/>	
	monthly	<input type="text"/>	<input type="text"/>	
	quarterly	<input type="text"/>	<input type="text"/>	
	semiannual	<input type="text"/>	<input type="text"/>	
	annual	<input type="text"/>	<input type="text"/>	
	single event	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
		Violation Base Penalty	<input type="text" value="\$2,500"/>	
One single event is recommended based on documentation of the violation during the October 15, 2008 investigation.				
Good Faith Efforts to Comply		<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$625"/>
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	x	<input type="text"/>	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>		
Notes	The Respondent came into compliance on November 4, 2008.			
		Violation Subtotal	<input type="text" value="\$1,875"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$1,625"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,625"/>		

Economic Benefit Worksheet

Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron
Case ID No. 36824
Reg. Ent. Reference No. RN100823830
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	15-Oct-2008	4-Nov-2008	0.05	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of maintaining the correct insurance certificate specified by the rule. The date required is the investigation date and the 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

Screening Date 19-Nov-2008	Docket No. 2008-1795-PST-E	PCW		
Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36824	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN100823830				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	5			
Rule Cite(s)	30 Tex. Admin. Code § 115.242(3) and (3)(E) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the hoses were severely worn and torn at the nozzle bases of dispenser nos. 1, 3, 5, 9, and 11, and the vapor guards were inverted on the nozzles for dispenser nos. 8 and 10.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
Potential		x		Percent 25%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent 0%
Matrix Notes	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.			
Adjustment		\$7,500		
			\$2,500	
Violation Events				
Number of Violation Events		1	20	Number of violation days
<small>mark only one with an x</small>	daily			Violation Base Penalty \$2,500
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
One quarterly event is recommended based on documentation of the violation during the October 15, 2008 investigation to the November 4, 2008 compliance date.				
Good Faith Efforts to Comply		25.0% Reduction		\$625
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary	x			
N/A		<small>(mark with x)</small>		
Notes	The Respondent came into compliance on November 4, 2008.			
Violation Subtotal			\$1,875	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$2	Violation Final Penalty Total \$1,625	
			This violation Final Assessed Penalty (adjusted for limits) \$1,625	

Economic Benefit Worksheet

Respondent CAHILL INVESTMENTS, INC. dba Resler Chevron
Case ID No. 36824
Reg. Ent. Reference No. RN100823830
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	15-Oct-2008	4-Nov-2008	0.05	\$0	\$2	\$2
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

Estimated cost for replacing the hoses on the nozzles and repairing the vapor guards on the dispensers. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$2

Compliance History Report

Customer/Respondent/Owner-Operator: CN601675994 CAHILL INVESTMENTS, INC. Classification: HIGH Rating: 0.00
Regulated Entity: RN100823830 Resler Chevron Classification: HIGH Site Rating: 0.00
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE1092F
PETROLEUM STORAGE TANK REGISTRATION 17854
Location: 6969 N MESA ST, EL PASO, TX, 79912 Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: November 19, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 19, 2003 to November 19, 2008

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

Name: Judy Kluge Phone: 817-588-5825

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

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 08/11/2004 (288373)
- 2 07/07/2006 (485254)
- 3 09/10/2008 (702426)
- 4 11/04/2008 (707258)

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
CAHILL INVESTMENTS, INC. DBA
RESLER CHEVRON
RN100823830

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1795-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 CAHILL INVESTMENTS, INC. dba Resler Chevron ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and 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 6969 North Mesa Street in El Paso, El Paso County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 November 17, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand One Hundred Twenty-Five Dollars (\$8,125) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Dollars (\$200) of the administrative penalty and One Thousand Six Hundred Twenty-Five Dollars (\$1,625) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Three Hundred Dollars (\$6,300) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Eighty Dollars (\$180) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. On November 4, 2008, the TCEQ El Paso Regional Office verified that the required UST records are being maintained at the Station;
 - b. The TCEQ El Paso Regional Office verified that the Respondent submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on November 4, 2008;
 - c. On November 4, 2008, the TCEQ El Paso Regional Office verified that the Respondent obtained a valid certificate of insurance; and
 - d. The TCEQ El Paso Regional Office verified that the hoses had been replaced and the vapor guards repaired on November 4, 2008.
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 the Respondent 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

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

1. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on October 15, 2008.
2. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on October 15, 2008. Specifically, the registration was not amended to indicate the current method of release detection and type of overfill prevention being implemented at the Station.
3. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on October 15, 2008. Specifically, the delivery certificate expired on August 31, 2007.
4. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on October 15, 2008. Specifically, the Station received 57 deliveries of fuel without having a current delivery certificate.
5. Failed to maintain a Certificate of Insurance as specified in the rules, in violation of 30 TEX. ADMIN. CODE § 37.835(b)(2), as documented during an investigation conducted on October 15, 2008. Specifically, a policy was in place, but no certificate was present at the Station as required by the rule.
6. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to, absence or disconnection of any component that is a part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and (3)(E) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 15, 2008. Specifically, the hoses were severely worn and torn at the nozzle bases of dispenser nos. 1, 3, 5, 9, and 11, and the vapor guards were inverted on the nozzles for dispenser nos. 8 and 10.

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: CAHILL INVESTMENTS, INC. dba Resler Chevron, Docket No. 2008-1795-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. 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 Station operations referenced in this Agreed Order.
3. 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.
4. 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.
5. 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.
6. 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.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

4/13/2009

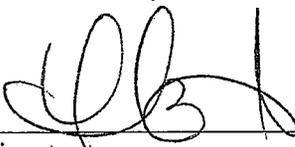
Date

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

02/18/09

Date

Mirka Black

Name (Printed or typed)
Authorized Representative of
CAHILL INVESTMENTS, INC. dba Resler Chevron

OFFICE & FINANCIAL MANAGER

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.