

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1971-PST-E **TCEQ ID:** RN100711415 **CASE NO.:** 36969
RESPONDENT NAME: City of Corpus Christi

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: Maintenance Service Center, 5352 Ayers Street, Corpus Christi, Nueces County</p> <p>TYPE OF OPERATION: Automotive maintenance shop and refueling station</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" 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 May 11, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Angel R. Escobar, P.E., City Manager, City of Corpus Christi, P.O. Box 9277, Corpus Christi, Texas 78469 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: September 26, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 25, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to take immediate action to prevent any further releases of the regulated substance into the environment, including shutting down the leaking underground storage tank ("UST") system, if necessary. Specifically, the leak was discovered in the diesel tank pump on September 17, 2008, and the Respondent continued dispensing and loading diesel fuel from/into the tank until September 26, 2008 [30 TEX. ADMIN. CODE § 334.76(2)].</p> <p>2) Failure to report to the Commission, within 24 hours, the discovery of released regulated substances at the UST facility or in the surrounding area. Specifically, the release was discovered on September 17, 2008, and the report was submitted to the TCEQ on September 29, 2008 [30 TEX. ADMIN. CODE § 334.72(1)].</p>	<p>Total Assessed: \$1,500</p> <p>Total Deferred: \$300 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,200</p> <p>Total Paid (Due) to General Revenue: \$0</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 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 Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Repaired the leaking pump and removed and disposed of the contaminated soil on September 26, 2008; and</p> <p>b. Submitted the required report to TCEQ on September 29, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): PST 48904

Attachment A
Docket Number: 2008-1971-PST-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Corpus Christi

Payable Penalty Amount: One Thousand Two Hundred Dollars (\$1,200)

SEP Amount: One Thousand Two Hundred Dollars (\$1,200)

Type of SEP: Pre-approved

Third-Party Recipient: Beautify Corpus Christi Association-Cleanup of Illegal Dump Sites

Location of SEP: Nueces County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup unauthorized dump sites, recycle materials when feasible, and properly dispose of all waste. Eligible sites will be limited to those where a responsible party cannot be found or is unable to clean the site and where reasonable efforts have been made to prevent the dumping.

SEP monies will be used for the direct cost of collection and disposal of waste. No SEP monies will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the potential of health threats and diseases associated with illegal dump sites.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

THE HISTORY OF THE UNITED STATES

The first part of the history of the United States is the period of discovery and settlement. The second part is the period of the American Revolution and the formation of the Constitution. The third part is the period of the early republic and the expansion of the United States.

The fourth part of the history of the United States is the period of the Civil War and Reconstruction. The fifth part is the period of the Gilded Age and the Progressive Era. The sixth part is the period of the two world wars and the Cold War.

The seventh part of the history of the United States is the period of the post-war era and the present. The eighth part is the period of the future of the United States.

The ninth part of the history of the United States is the period of the future of the United States. The tenth part is the period of the future of the United States.

The eleventh part of the history of the United States is the period of the future of the United States. The twelfth part is the period of the future of the United States.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Beautify Corpus Christi Association
Daiquiri Richard, Executive Director
545 North Upper Broadway
Corpus Christi, Texas 78746

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to ATexas Commission on Environmental Quality@ and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Dec-2008	PCW	30-Dec-2008	Screening	30-Dec-2008	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	City of Corpus Christi		
Reg. Ent. Ref. No.	RN100711415		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36969	No. of Violations	2
Docket No.	2008-1971-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,000

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 change recommended based on Average Performer Classification.

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** \$500

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

Total EB Amounts \$2
 Approx. Cost of Compliance \$1,200
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$1,500

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$1,500

DEFERRAL 20.0% Reduction **Adjustment** -\$300

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 \$1,200

Screening Date 30-Dec-2008

Docket No. 2008-1971-PST-E

PCW

Respondent City of Corpus Christi

Policy Revision 2 (September 2002)

Case ID No. 36969

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100711415

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change recommended based on Average Performer Classification.

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

Screening Date 30-Dec-2008	Docket No. 2008-1971-PST-E	PCW		
Respondent City of Corpus Christi	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36969	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN100711415				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Harvey Wilson				
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 334.76(2)			
Violation Description	Failed to take immediate action to prevent any further releases of the regulated substance into the environment, including shutting down the leaking Underground Storage Tank ("UST") system if necessary. Specifically, the leak was discovered in the diesel tank pump on September 17, 2008, and the Respondent continued dispensing and loading diesel fuel from/into the tank until September 26, 2008. The pump was repaired and contaminated soil removed and properly disposed on September 26, 2008.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	10%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	0%	
Matrix Notes	Human healthy or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environmental receptors.			
		Adjustment	\$9,000	
		\$1,000		
Violation Events				
	Number of Violation Events	1	Number of violation days	9
<small>mark only one with an x</small>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
		Violation Base Penalty	\$1,000	
One quarterly event is recommended from the date the leak occurred until the date of compliance.				
Good Faith Efforts to Comply		25.0% Reduction	\$250	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
N/A	<input type="checkbox"/>	(mark with x)		
Notes	The Respondent had the pump repaired on September 26, 2008.			
		Violation Subtotal	\$750	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$1	Violation Final Penalty Total	\$750	
		This violation Final Assessed Penalty (adjusted for limits) \$750		

Economic Benefit Worksheet

Respondent City of Corpus Christi
Case ID No. 36969
Reg. Ent. Reference No. RN100711415
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$700	17-Sep-2008	26-Sep-2008	0.02	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	17-Sep-2008	26-Sep-2008	0.02	\$0	n/a	\$0

Notes for DELAYED costs
 The actual cost of repairing the leaking pump and removing and disposing the contaminated soil. Date Required is the date the discharge was discovered. Final Date is the date the pump was repaired and the soil was removed.

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	\$950	TOTAL	\$1
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Screening Date 30-Dec-2008	Docket No. 2008-1971-PST-E	PCW	
Respondent City of Corpus Christi		<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 36969		<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN100711415			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Harvey Wilson			
Violation Number <input type="text" value="2"/>			
Rule Cite(s)	30 Tex. Admin. Code § 334.72(1)		
Violation Description	Failed to report to the Commission, within 24 hours, the discovery of released regulated substances at the UST facility or in the surrounding area. Specifically, the report due September 18, 2008, was not filed with the TCEQ until September 29, 2008.		
	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"/>
	Potential	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>
			<input type="text"/>
			Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.		
	Adjustment	<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>	
Violation Events			
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="11"/> Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="x"/>	
			Violation Base Penalty <input type="text" value="\$1,000"/>
	One single event is recommended.		
Good Faith Efforts to Comply			
	25.0% Reduction	<input type="text" value="\$250"/>	
	Before NOV	NOV to EDRP/Settlement Offer	
	Extraordinary	<input type="text"/>	
	Ordinary	<input type="text" value="x"/>	
	N/A	(mark with x)	
	Notes	The Respondent submitted the report on September 29, 2008.	
	Violation Subtotal	<input type="text" value="\$750"/>	
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="\$750"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$750"/>

Economic Benefit Worksheet

Respondent City of Corpus Christi
Case ID No. 36969
Reg. Ent. Reference No. RN100711415
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	18-Sep-2008	29-Sep-2008	0.03	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of submitting the required report to the Commission. Date Required is the date the report was required to be submitted. Final Date is the date the report was submitted.

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

\$250

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600131858 City of Corpus Christi Classification: AVERAGE Rating: 2.49
Regulated Entity: RN100711415 MAINTENANCE SERVICE CENTER Classification: HIGH Site Rating: 0.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 48904
REGISTRATION
Location: 5352 AYERS ST, CORPUS CHRISTI, TX, 78415
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: December 23, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 23, 2003 to December 23, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Harvey Wilson Phone: 239 - 0321

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 12/22/2005 (440423)
2 11/25/2008 (706037)
- 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
CITY OF CORPUS CHRISTI
RN100711415

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-1971-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 City of Corpus Christi ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a automotive maintenance shop and refueling station at 5352 Ayers Street in Corpus Christi, Nueces County, Texas (the "Facility").
2. The City's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 30, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Hundred Dollars (\$300) is deferred contingent upon the City'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 City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. One Thousand Two Hundred Dollars (\$1,200) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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 City 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 City has implemented the following corrective measures at the Facility:
 - a. Repaired the leaking pump and removed and disposed of the contaminated soil on September 26, 2008; and
 - b. Submitted the required report to TCEQ on September 29, 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 City 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 Facility, the City is alleged to have:

1. Failed to take immediate action to prevent any further releases of the regulated substance into the environment, including shutting down the leaking UST system if necessary, in violation of 30 TEX. ADMIN. CODE § 334.76(2), as documented during an investigation conducted on September 26, 2008. Specifically, the leak was discovered in the diesel tank pump on September 17, 2008, and the City continued dispensing and loading diesel fuel from/into the tank until September 26, 2008. The pump was repaired and contaminated soil removed and properly disposed on September 26, 2008.
2. Failed to report to the Commission, within 24 hours, the discovery of released regulated substances at the UST facility or in the surrounding area, in violation of 30 TEX. ADMIN. CODE § 334.72(1), as documented during an investigation conducted on September 26, 2008. Specifically, the release was discovered on September 17, 2008, and the report was submitted to the TCEQ on September 29, 2008.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City'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: City of Corpus Christi, Docket No. 2008-1971-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 City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Two Hundred Dollars (\$1,200) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City 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 City 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 City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City 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 City shall be made in writing to the Executive Director. Extensions are not effective until the City 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 City 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 City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Corpus Christi
DOCKET NO. 2008-1971-PST-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdler
For the Executive Director

4/17/2009
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.

Angel R Escobar
Signature

4/13/09
Date

Angel R. Escobar
Name (Printed or typed)
Authorized Representative of
City of Corpus Christi

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2008-1971-PST-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Corpus Christi

Payable Penalty Amount: One Thousand Two Hundred Dollars (\$1,200)

SEP Amount: One Thousand Two Hundred Dollars (\$1,200)

Type of SEP: Pre-approved

Third-Party Recipient: Beautify Corpus Christi Association-Cleanup of Illegal Dump Sites

Location of SEP: Nueces County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup unauthorized dump sites, recycle materials when feasible, and properly dispose of all waste. Eligible sites will be limited to those where a responsible party cannot be found or is unable to clean the site and where reasonable efforts have been made to prevent the dumping.

SEP monies will be used for the direct cost of collection and disposal of waste. No SEP monies will be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing the potential of health threats and diseases associated with illegal dump sites.

C. Minimum Expenditure

Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Beautify Corpus Christi Association
Daiquiri Richard, Executive Director
545 North Upper Broadway
Corpus Christi, Texas 78746

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to ATexas Commission on Environmental Quality@ and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

