

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1572-PST-E TCEQ ID: RN105574321 CASE NO.: 36617

RESPONDENT NAME: JESUS RIVERA DBA EL BURRITO STOP N GO

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" 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 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

SITE WHERE VIOLATION(S) OCCURRED: 1216 West Veterans Boulevard, Palmview, Hidalgo County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that Respondent was selling fuel without a delivery certificate. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired June 1, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 149, (512) 239-0789

TCEQ Regional Contact: Mr. Jaime A. Garza, Harlingen Regional Office, MC R-15, (956) 430-6030

Respondent: Mr. Jesus Rivera, Owner, El Burrito Stop N Go, 1216 West Veterans Boulevard, Palmview, Texas 78572

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: May 14, 2008</p> <p>Dates of Investigation Relating to this Case: May 19, 2008 (investigation) July 30, 2008 (record review)</p> <p>Dates of NOEs Relating to this Case: July 3, 2008 and October 6, 2008</p> <p>Background Facts: The EDPRP was filed January 30, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDPRP. The Notice of Intent ("NOI") to Shutdown USTs was mailed to the Respondent March 9, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PST:</p> <p>1. Failed to obtain a UST delivery certificate by submitting a properly completed UST registration and self-certification form to the agency in a timely manner [30 TEX. ADMIN. CODE §§ 334.8(c)(4)(A)(vi)(I), (c)(4)(B), and (c)(5)(B)(i)].</p> <p>2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p>	<p>Total Assessed: \$7,365</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$7,365</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately: <ol style="list-style-type: none"> a. Cease dispensing fuel from the USTs; b. Cease receiving deliveries of regulated substances into the USTs; c. Padlock the dispensers; d. Empty the USTs of all regulated substances; and e. Temporarily remove the USTs from service. 2. Within 10 days, send his UST delivery certificate to the TCEQ. 3. Within 15 days, submit a detailed written report documenting the steps taken to comply with the above Ordering Provisions 1.a. through 1.e. and 2, above. 4. Within 15 days, if Respondent elects to permanently remove from service any USTs at the Facility, submit to the TCEQ a written report documenting that the USTs have been removed from service in compliance with TCEQ rules. 5. Respondents USTs shall remain out of service until such time as he demonstrates to the satisfaction of the Executive Director that he has completed Ordering Provisions 6.a. and 6.b., below. 6. Prior to resuming retail sales of gasoline: <ol style="list-style-type: none"> a. Install and implement a release detection method for all USTs and begin conducting reconciliation of inventory records; and b. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>4. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and 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 [30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and (d)(1)(B)(ii), and TEX. WATER CODE § 26.3475(c)(1)].</p>		<p>7. Prior to receiving deliveries of gasoline, obtain a new delivery certificate from the TCEQ.</p> <p>8. Within 10 days of resuming retail sales of gasoline, submit written certification and detailed supporting documentation to demonstrate compliance with Ordering Provisions 6.a. through 7., above.</p> <p>9. Upon obtaining a new delivery certificate, post the delivery certificate in a location where the document is clearly visible at all times.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision June 12, 2008

TCEQ

DATES
 Assigned PCW: 11-Aug-2008
 Screening: 22-Dec-2008
 EPA Due: 24-Sep-2008

RESPONDENT/FACILITY INFORMATION

Respondent: Jesus Rivera dba El Burrito Stop N Go
 Reg. Ent. Ref. No.: RN105574321
 Facility/Site Region: 15-Harlingen
 Major/Minor Source: Minor

CASE INFORMATION

Enf./Case ID No.: 36617
 Docket No.: 2008-1572-PST-E
 Media Program(s): Petroleum Storage Tank
 Multi-Media:
 No. of Violations: 4
 Order Type: 1660
 Government/Non-Profit: No
 Enf. Coordinator: Elvia Maske
 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 -10.0% Enhancement Subtotals 2, 3, & 7 -\$600

Notes: Reduction due to High 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 \$0

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts: \$1,417
 Approx. Cost of Compliance: \$2,900
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$5,400

OTHER FACTORS AS JUSTICE MAY REQUIRE 36.4% Adjustment \$1,965

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Because this is a Default Order, the Executive Director recommends an upward adjustment to offset the reduction for compliance history, and recommends an enhancement to capture the avoided cost of compliance associated with Violation No. 3.

Final Penalty Amount \$7,365

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$7,365

DEFERRAL 0.0% Reduction Adjustment \$0

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$7,365

Screening Date 24-Sep-2008

Docket No. 2008-1572-PST-E

PCW

Respondent Jesus Rivera dba El Burrito Stop N Go

Policy Revision 2 (September 2002)

Case ID No. 36617

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105574321

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

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%
<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 due to High Performer classification.

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

Screening Date 24-Sep-2008	Docket No. 2008-1572-PST-E	PCW	
Respondent Jesus Rivera dba El Burrito Stop N Go	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36617	<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN105574321			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Elvia Maske			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(4)(A)(vi)(I), 334.8(c)(4)(B) and 334.8(c)(5)(B)(i)"/>		
Violation Description	<input type="text" value="Failed to obtain a UST delivery certificate by submitting a properly completed UST registration and self-certification form to the agency in a timely manner. Specifically, the Respondent did not file the initial self-certification."/>		
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"/>	x	<input type="text"/>
			Percent <input type="text" value="10%"/>
Matrix Notes	<input type="text" value="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"/>	Number of violation days	<input type="text" value="56"/>
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	
<input type="text" value="One single event is recommended based on documentation of the violation during the July 30, 2008 record review."/>			
Good Faith Efforts to Comply		0.0% Reduction	<input type="text" value="\$0"/>
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	x	(mark with x)	
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>		
Violation Subtotal		<input type="text" value="\$1,000"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$41"/>	Violation Final Penalty Total	<input type="text" value="\$1,228"/>
		This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,228"/>

Economic Benefit Worksheet

Respondent Jesus Rivera dba El Burrito Stop N Go

Case ID No. 36617

Reg. Ent. Reference No. RN105574321

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
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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	22-Jan-2001	1-Apr-2009	8.19	\$41	n/a	\$41

Notes for DELAYED costs

Estimated cost to obtain a delivery certificate by submitting a properly completed UST registration and self-certification form. Date Required is the date when the self-certification was due. Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$41

Screening Date 24-Sep-2008	Docket No. 2008-1572-PST-E	PCW															
Respondent Jesus Rivera dba El Burrito Stop N Go	<small>Policy Revision 2 (September 2002)</small>																
Case ID No. 36617	<small>PCW Revision June 12, 2008</small>																
Reg. Ent. Reference No. RN105574321																	
Media [Statute] Petroleum Storage Tank																	
Enf. Coordinator Elvia Maske																	
Violation Number <input type="text" value="2"/>																	
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 Respondent accepted one fuel delivery without a delivery certificate."/>																
Base Penalty		<input type="text" value="\$10,000"/>															
>> Environmental, Property and Human Health Matrix																	
OR	Harm																
	Release	Major	Moderate	Minor													
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>													
	Potential	<input type="text"/>	<input type="text"/>	x													
		Percent	<input type="text" value="5%"/>														
>> Programmatic Matrix																	
		Falsification	Major	Moderate	Minor												
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>												
					Percent												
					<input type="text" value="0%"/>												
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>																
		Adjustment		<input type="text" value="\$9,500"/>													
				<input type="text" value="\$500"/>													
Violation Events																	
		Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="1"/>												
		<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x		
daily	<input type="text"/>																
monthly	<input type="text"/>																
quarterly	<input type="text"/>																
semiannual	<input type="text"/>																
annual	<input type="text"/>																
single event	x																
				Violation Base Penalty	<input type="text" value="\$500"/>												
		<input type="text" value="One single event is recommended for accepting one fuel delivery without a delivery certificate."/>															
Good Faith Efforts to Comply																	
		<input type="text" value="0.0%"/> Reduction		<input type="text" value="\$0"/>													
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>														
		Extraordinary	<input type="text"/>														
		Ordinary	<input type="text"/>														
		N/A	x	<small>(mark with x)</small>													
Notes		<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>															
		Violation Subtotal		<input type="text" value="\$500"/>													
Economic Benefit (EB) for this violation																	
		Estimated EB Amount		<input type="text" value="\$0"/>													
Statutory Limit Test																	
		Violation Final Penalty Total		<input type="text" value="\$614"/>													
		This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$614"/>													

Economic Benefit Worksheet

Respondent Jesus Rivera dba El Burrito Stop N Go
Case ID No. 36617
Reg. Ent. Reference No. RN105574321
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
<i>No commas or \$</i>							
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. 1.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 24-Sep-2008	Docket No. 2008-1572-PST-E	PCW			
Respondent Jesus Rivera dba El Burrito Stop N Go	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 36617	<small>PCW Revision June 12, 2008</small>				
Reg. Ent. Reference No. RN105574321					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Elvia Maske					
Violation Number <input type="text" value="3"/>					
Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)				
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.				
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			Percent <input type="text" value="10%"/>		
Major	Moderate	Minor			
<input type="text"/>	x	<input type="text"/>			
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="2"/>		<input type="text" value="56"/> Number of violation days			
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,000"/>		
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	x			
Two single events are recommended for the two USTs.					
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>		
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>			
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	x	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal		<input type="text" value="\$2,000"/>			
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount <input type="text" value="\$1,365"/>		Violation Final Penalty Total <input type="text" value="\$2,455"/>			
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$2,455"/>			

Economic Benefit Worksheet

Respondent Jesus Rivera dba El Burrito Stop N Go
Case ID No. 36617
Reg. Ent. Reference No. RN105574321
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
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]	\$1,300	30-Jul-2007	30-Jul-2008	1.00	\$65	\$1,300	\$1,365
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for two USTs (\$650 per tank). Date Required is one year prior to the investigation. Final Date is the record review date.

Approx. Cost of Compliance

\$1,300

TOTAL

\$1,365

Screening Date 24-Sep-2008	Docket No. 2008-1572-PST-E	PCW		
Respondent Jesus Rivera dba El Burrito Stop N Go	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36617	<small>PCW Revision June 12, 2008</small>			
Reg. Ent. Reference No. RN105574321				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Elvia Maske				
Violation Number <input type="text" value="4"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.50(b)(1)(A), 334.50(d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)"/>			
Violation Description	<input type="text" value="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 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."/>			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="25%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	<input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="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."/>			
		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="54"/>	Number of violation days
<small>mark only one with an x</small>	daily	<input type="text"/>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	monthly	<input type="text"/>	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	<input type="text"/>	
	semiannual	<input type="text"/>	<input type="text"/>	
	annual	<input type="text"/>	<input type="text"/>	
	single event	<input type="text"/>	<input type="text"/>	
<input type="text" value="One quarterly event is recommended from the May 19, 2008 investigation date to the July 12, 2008 compliance date."/>				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/> Reduction		<input type="text" value="\$0"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
N/A	<input type="text" value="x"/>	<small>(mark with x)</small>		
Notes	<input type="text" value="No good faith reduction is offered when a Default Order is recommended."/>			
		Violation Subtotal	<input type="text" value="\$2,500"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	<input type="text" value="\$11"/>	Violation Final Penalty Total	<input type="text" value="\$3,069"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$3,069"/>

Economic Benefit Worksheet

Respondent Jesus Rivera dba El Burrito Stop N Go

Case ID No. 36617

Reg. Ent. Reference No. RN105574321

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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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	19-May-2008	12-Jul-2008	0.15	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost of monitoring all USTs for releases and to include reconciliation of inventory control records. Date Required is the investigation date. 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

\$1,500

TOTAL

\$11

Compliance History

Customer/Respondent/Owner-Operator: CN603385048 RIVERA, JESUS Classification: HIGH Rating: 0.00
Regulated Entity: RN105574321 EL BURRITO STOP N GO Classification: HIGH Site Rating: 0.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 79299
REGISTRATION
Location: 1216 W VETERANS BLVD, PALMVIEW, TX, 78572 Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: September 29, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 29, 2003 to September 29, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Elvia Maske Phone: (512) 239-0789

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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.)
08/07/2008 (688188)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JESUS RIVERA DBA EL BURRITO
STOP N GO;
RN105574321

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2008-1572-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting entry of an Order requiring the respondent, Jesus Rivera dba El Burrito Stop N Go ("Mr. Rivera"), to shutdown or remove from service the Underground Storage Tanks ("USTs") at the El Burrito Stop N Go facility, located at 1216 West Veterans Boulevard in Palmview, Hidalgo County, Texas.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Rivera owns and operates a convenience store with retail sales of gasoline, located at 1216 West Veterans Boulevard in Palmview, Hidalgo County, Texas (the "Facility").
2. The USTs at the Facility contain regulated substances as defined in the Commission's rules. The USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. During an investigation conducted on May 19, 2008 and a record review conducted on July 30, 2008, an investigator from the TCEQ Harlingen Office documented that Mr. Rivera:

- a. Failed to obtain a UST delivery certificate by submitting a properly completed UST registration and self-certification form to the agency in a timely manner. Specifically, Mr. Rivera did not file the initial self-certification.
 - b. 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, Mr. Rivera accepted one fuel delivery without a delivery certificate.
 - c. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
 - d. Failed to monitor USTs for release at a frequency of at least once every month (not to exceed 35 days between each monitoring) and 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.
4. By letter dated October 23, 2008, the TCEQ Central Office provided Mr. Rivera with notice of the violations and the TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance regulations if the violations were not corrected.
 5. Mr. Rivera received notice of the violations on or about July 8, 2008 and October 11, 2008.
 6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Jesus Rivera dba El Burrito Stop N Go" (the "EDPRP") in the TCEQ Chief Clerk's office on January 30, 2009.
 7. By letter dated January 30, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Rivera with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Rivera received notice of the EDPRP.

8. More than 20 days have elapsed since Mr. Rivera received notice of the EDPRP, provided by the Executive Director. Mr. Rivera failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
9. By letter dated March 9, 2009, TCEQ provided Mr. Rivera with notice of TCEQ's intent to order the USTs at the Facility shut down and removed from service if Mr. Rivera failed to correct the release detection violation within 30 days after Mr. Rivera's receipt of the notice.
10. As of the date of entry of this Order, Mr. Rivera has not corrected the violations noted during the May 19, 2008 investigation and July 30, 2008 record review.
11. The USTs at the Facility do not have release detection as required by 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1) and may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Rivera's USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact Number 3.a., Mr. Rivera violated 30 TEX. ADMIN. CODE §§ 334.8(c)(4)(A)(vi)(I), 334.8(c)(4)(B) and 334.8(c)(5)(B)(i), by failing to obtain a UST delivery certificate by submitting a properly completed UST registration and self-certification form to the agency in a timely manner.
3. As evidenced by Finding of Fact Number 3.b., Mr. Rivera violated 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs.
4. As evidenced by Finding of Fact Number 3.c., Mr. Rivera violated 30 TEX. ADMIN. CODE §§ 37.815(a) and 37.815(b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

5. As evidenced by Finding of Fact Number 3.d., Mr. Rivera violated 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), by failing to monitor USTs for release at a frequency of at least once every month (not to exceed 35 days between each monitoring) and 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.
6. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Rivera with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
7. As evidenced by Finding of Fact No. 8, Mr. Rivera failed to file a timely answer, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Rivera and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Rivera for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of seven thousand three hundred sixty-five dollars (\$7,365.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. As evidenced by Finding of Fact Nos. 3, 4, 5 and 10, Mr. Rivera failed to correct documented violations of Commission requirements within 30 days after Mr. Rivera received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
11. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overflow protection for tanks, corrosion protection for tanks and piping, and/or acceptable financial assurance.
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

13. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Mr. Rivera's UST delivery certificate if the Commission finds that good cause exists.
14. Good cause for revocation of Mr. Rivera's UST delivery certificate exists as justified by Findings of Fact Nos. 3 through 10 and Conclusions of Law Nos. 6, 7 and 10.
15. As evidenced by Finding of Fact Number 11, current conditions at the Facility constitute an imminent peril to public health, safety and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, Mr. Rivera shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. Mr. Rivera's UST delivery certificate is revoked immediately upon the effective date of this Order. Mr. Rivera may submit an application for a new delivery certificate only after Mr. Rivera has complied with all of the requirements set forth in these Ordering Provisions.
3. Within 10 days after the effective date of this Order, Mr. Rivera shall send its UST delivery certificate to:

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

4. Within 15 days after the effective date of this Order, Mr. Rivera shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 3. Mr. Rivera shall submit the report to:

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

and

Jaime A. Garza, Waste Section Manager
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 West Jefferson Ave.
Harlingen, Texas 78550-5247

5. If Mr. Rivera elects to permanently remove from service any USTs at the Facility, Mr. Rivera shall immediately and permanently remove the UST system in accordance with 30 TEX. ADMIN. CODE § 334.55. If Mr. Rivera permanently removes any portion of the UST system from service, Mr. Rivera shall, within 15 days after the effective date of this order, submit to the Commission a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55. Mr. Rivera shall submit the written report to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Mr. Rivera is assessed an administrative penalty in the amount of seven thousand three hundred sixty-five dollars (\$7,365.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Mr. Rivera's compliance with all the terms

and conditions set forth in this Order completely resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Jesus Rivera dba El Burrito Stop N Go; Docket No. 2008-1572-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

7. Mr. Rivera's USTs shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provision Nos. 1.a. through 1.e., until such time as Mr. Rivera demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Finding of Fact Nos. 3.c. and 3.d. and Conclusion of Law Nos. 4 and 5 as listed herein.
8. Prior to resuming retail sales of gasoline, Mr. Rivera shall:
 - a. 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; and
 - b. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 TEX. ADMIN. CODE § 37.815 to:

Mr. Rob Norris, Senior Financial Analyst
Financial Assurance Unit, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

9. Prior to receiving deliveries of gasoline, Mr. Rivera shall obtain a new delivery certificate from the TCEQ.

10. Within 10 days of resuming retail sales of gasoline, Mr. Rivera shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 8.a., 8.b., and 9. The written certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

and

Jamie A. Garza, Waste Section Manager
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 West Jefferson Ave.
Harlingen, Texas 78550-5247

11. Upon obtaining a new delivery certificate, Mr. Rivera shall post the delivery certificate in a location where the document is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. All relief not expressly granted in this Order is denied.

13. The provisions of this Order shall apply to and be binding upon Mr. Rivera, and Mr. Rivera is ordered to give notice of this Order to personnel who maintain day to day control of the USTs at the Facility.
14. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Mr. Rivera if the Executive Director determines that Mr. Rivera is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
15. This Order shall terminate five years from its effective date or when Mr. Rivera demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein.
16. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

Jesus Rivera dba El Burrito Stop N Go
TCEQ Docket No. 2008-1572-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

