

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1872-PST-E **TCEQ ID:** RN102249299 **CASE NO.:** 36888

RESPONDENT NAME: Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats

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: Rodriguez Best Pic & Meats, 1701 East Mile 5 North, Weslaco, Hidalgo 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 May 18, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Brianna Carlson, Enforcement Division, Enforcement Team 6, MC R-15, (956) 430-6021; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Eusebio Rodriguez, Jr., Owner, Rodriguez Best Pic & Meats, 1701 East Mile 5 North, Weslaco, Texas 78596 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 6, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 24, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation. The order was remanded from the June 3, 2009 Agenda. It is now ready for consideration.</p> <p>WASTE</p> <p>1) Failure to obtain a delivery certificate by submitting a properly completed underground storage tank ("UST") registration and self-certification form to the agency within 30 days of ownership change. Specifically, the registration was not updated to reflect the ownership change on November 1, 2006 [30 TEX. ADMIN. CODE § 334.8(c)(4)(C)].</p> <p>2) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, the Respondent received 19 deliveries of fuel without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>3) Failure to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>4) Failure to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE</p>	<p>Total Assessed: \$8,062</p> <p>Total Deferred: \$1,612 <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: \$990 (remaining \$5,460 due in 35 monthly payments of \$156 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted a properly completed updated UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on November 6, 2008;</p> <p>b. Labeled the UST with an identification number that matches the number listed on the UST registration and self-certification form on November 6, 2008;</p> <p>c. Began conducting proper inventory control procedures for the UST on November 6, 2008; and</p> <p>d. Replaced the bucket on the unleaded dispenser sump and installed water tight gaskets on the fuel drop cover lids on November 6, 2008.</p> <p>e. Implemented a release detection method for the UST on December 22, 2008.</p>

<p>§ 334.48(c)].</p> <p>5) Failure to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not put into test mode monthly [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>6) Failure to ensure that all spill and overflow prevention devices are maintained in good operating condition. Specifically, the sump bucket on the unleaded gasoline fuel compartment was cracked and two fuel drop cover lids were missing the water-tight gasket [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p>		
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Additional ID No(s): 47159



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	1-Dec-2008			
	PCW	5-Dec-2008	Screening	4-Dec-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats
Reg. Ent. Ref. No.	RN102249299
Facility/Site Region	15-Harlingen
	Major/Minor Source Minor

CASE INFORMATION			
Enf./Case ID No.	36888	No. of Violations	6
Docket No.	2008-1872-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		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)	<i>Subtotal 1</i>	\$17,500
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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	<i>Subtotals 2, 3, & 7</i>	\$0
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Notes: No adjustment due to compliance history.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$4,000
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$31
Approx. Cost of Compliance \$2,700
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$13,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	40.3%	<i>Adjustment</i>	-\$5,438
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: A penalty reduction has been given to offset the portion of the penalty that could have been eligible for a Field Citation.

Final Penalty Amount \$8,062

STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$8,062
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DEFERRAL	20.0%	Reduction	<i>Adjustment</i>	-\$1,612
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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	\$6,450
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Screening Date 4-Dec-2008

Docket No. 2008-1872-PST-E

PCW

Respondent Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats

Policy Revision 2 (September 2002)

Case ID No. 36888

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102249299

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 4-Dec-2008 **Docket No.** 2008-1872-PST-E **PCW**
Respondent Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats *Policy Revision 2 (September 2002)*
Case ID No. 36888 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102249299
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Brianna Carlson

Violation Number
Rule Cite(s)
Violation Description Failed to obtain a delivery certificate by submitting a properly completed UST registration and self-certification form to the agency within 30 days of ownership change. Specifically, the registration was not updated to reflect the ownership change on November 1, 2006.
Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes
Adjustment

Violation Events

Number of Violation Events **Number of violation days**
mark only one with an x

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="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes
Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**
This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats

Case ID No.: 36888

Reg. Ent. Reference No.: RN102249299

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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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-Dec-2006	6-Nov-2008	1.93	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to obtain a delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is when the self-certification was due. 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

\$10

Screening Date 4-Dec-2008	Docket No. 2008-1872-PST-E	PCW				
Respondent Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats	<i>Policy Revision 2 (September 2002)</i>					
Case ID No. 36888	<i>PCW Revision October 30, 2008</i>					
Reg. Ent. Reference No. RN102249299						
Media [Statute] Petroleum Storage Tank						
Enf. Coordinator Brianna Carlson						
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 UST. Specifically, the Respondent received 19 deliveries of fuel 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="19"/>	Number of violation days		<input type="text" value="19"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>				
	weekly	<input type="text"/>				
	monthly	<input type="text"/>				
	quarterly	<input type="text"/>				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
	single event	x				
		Violation Base Penalty		<input type="text" value="\$9,500"/>		
<input type="text" value="19 single events are recommended for accepting 19 deliveries of fuel."/>						
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction		<input type="text" value="\$2,375"/>		
		Before NOV	NOV to EDPRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>				
Ordinary	x	<input type="text"/>				
N/A	<input type="text"/>	(mark with x)				
Notes	<input type="text" value="The Respondent came into compliance on November 6, 2008, before the NOE dated November 24, 2008."/>					
		Violation Subtotal		<input type="text" value="\$7,125"/>		
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="\$4,255"/>		
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$4,255"/>		

Economic Benefit Worksheet

Respondent Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats

Case ID No. 36888

Reg. Ent. Reference No. RN102249299

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

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

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 4-Dec-2008	Docket No. 2008-1872-PST-E	PCW				
Respondent Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats	<i>Policy Revision 2 (September 2002)</i>					
Case ID No. 36888	<i>PCW Revision October 30, 2008</i>					
Reg. Ent. Reference No. RN102249299						
Media [Statute] Petroleum Storage Tank						
Enf. Coordinator Brianna Carlson						
Violation Number <input type="text" value="3"/>						
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(C)					
Violation Description	Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.					
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"/>	<input type="text"/>			
		Percent	<input type="text" value="0%"/>			
>> Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input checked="" 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"/>		Number of violation days		
		<input type="text" value="32"/>				
<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 checked="" type="text" value="x"/>				
				<input type="text" value="\$1,000"/>		
One single event is recommended based on documentation of the violation during the October 6, 2008 investigation.						
Good Faith Efforts to Comply						
		<input type="text" value="25.0%"/> Reduction		<input type="text" value="\$250"/>		
		Before NOV	NOV to EDPRP/Settlement Offer			
Extraordinary		<input type="text"/>				
Ordinary		<input checked="" type="text" value="X"/>				
N/A		<input type="text"/>		<i>(mark with x)</i>		
Notes		The Respondent came into compliance on November 6, 2008, before the NOE dated November 24, 2008.				
				Violation Subtotal		
				<input type="text" value="\$750"/>		
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="\$448"/>		
				This violation Final Assessed Penalty (adjusted for limits)		
				<input type="text" value="\$448"/>		

Economic Benefit Worksheet

Respondent: Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats
Case ID No.: 36888
Reg. Ent. Reference No.: RN102249299
Media: Petroleum Storage Tank
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$100	6-Oct-2008	6-Nov-2008	0.08	\$0	\$1	\$1
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 to label the tank fill pipes. The date required is the date of investigation and the final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$1
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Screening Date 4-Dec-2008	Docket No. 2008-1872-PST-E	PCW
Respondent Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 36888		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN102249299		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Brianna Carlson		
Violation Number	<input type="text" value="4"/>	
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.48(c)"/>	
Violation Description	<input type="text" value="Failed to conduct effective manual or automatic inventory control procedures for the UST system."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
		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

	Major	Moderate	Minor	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

25.0% Reduction	
	Before NOV NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>
Ordinary	<input type="text" value="x"/>
N/A	<input type="text"/> (mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats
Case ID No.: 36888
Reg. Ent. Reference No.: RN102249299
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	6-Oct-2008	6-Nov-2008	0.08	\$2	n/a	\$2
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 conduct proper inventory control procedures. The date required is the date of the investigation. The final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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
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Screening Date 4-Dec-2008	Docket No. 2008-1872-PST-E	PCW		
Respondent Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36888	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN102249299				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Brianna Carlson				
Violation Number <input type="text" value="5"/>				
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)"/>			
Violation Description	<input type="text" value="Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not put into test mode monthly."/>			
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	x	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="25%"/>
>> Programmatic Matrix				
Falsification				
Major Moderate Minor				
<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="60"/> Number of violation days		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
<input type="text" value="One quarterly event is recommended based on documentation of the violation during the October 6, 2008 investigation to the December 4, 2008 screening date."/>				
Good Faith Efforts to Comply			<input type="text" value="10.0% Reduction"/> <input type="text" value="\$250"/>	
Before NOV NOV to EDPRP/Settlement Offer				
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	x		
N/A	(mark with x)			
Notes	<input type="text" value="The Respondent came into compliance on December 22, 2008, after the NOE dated November 24, 2008."/>			
Violation Subtotal			<input type="text" value="\$2,250"/>	
Economic Benefit (EB) for this violation				
Statutory Limit Test				
Estimated EB Amount <input type="text" value="\$16"/>		Violation Final Penalty Total <input type="text" value="\$1,344"/>		
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,344"/>	

Economic Benefit Worksheet

Respondent: Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats
Case ID No.: 36888
Reg. Ent. Reference No.: RN102249299
Media: Petroleum Storage Tank
Violation No.: 5

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	6-Oct-2008	22-Dec-2008	0.21	\$16	n/a	\$16

Notes for DELAYED costs: Estimated cost to monitor the UST for releases. The date required is the investigation date. 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	\$1,500	TOTAL	\$16
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Screening Date 4-Dec-2008		Docket No. 2008-1872-PST-E		PCW
Respondent Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36888		<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN102249299				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Brianna Carlson				
Violation Number	6			
Rule Cite(s)	30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)			
Violation Description	Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the sump bucket on the unleaded gasoline fuel compartment was cracked and two fuel drop cover lids were missing the water-tight gasket.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Major	Moderate	Minor	
Release				
Actual				
Potential		x		Percent 10%
>> Programmatic Matrix				
	Major	Moderate	Minor	
Falsification				
				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				\$9,000
				\$1,000
Violation Events				
Number of Violation Events	1		Number of violation days	32
<i>mark only one with an x</i>	daily			
	weekly			
	monthly			
	quarterly	x		Violation Base Penalty \$1,000
	semiannual			
	annual			
	single event			
One quarterly event is recommended based on documentation of the violation during the October 6, 2008 investigation to the November 6, 2008 compliance date.				
Good Faith Efforts to Comply		25.0% Reduction		\$250
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary	x			
N/A		(mark with x)		
Notes	The Respondent came into compliance on November 6, 2008, before the NOE dated November 24, 2008.			
Violation Subtotal				\$750
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$3		Violation Final Penalty Total	\$448
This violation Final Assessed Penalty (adjusted for limits)				\$448

Economic Benefit Worksheet

Respondent: Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats
Case ID No.: 36888
Reg. Ent. Reference No.: RN102249299
Media: Petroleum Storage Tank
Violation No.: 6

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	\$500	6-Oct-2008	6-Nov-2008	0.08	\$0	\$3	\$3
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 to replace the sump bucket and install the gaskets on the fuel drop cover lids. The date required is the investigation date. 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	\$3
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Compliance History Report

Customer/Respondent/Owner-Operator: CN601950082 RODRIGUEZ, EUSEBIO JR Classification: AVERAGE Rating: 3.01
Regulated Entity: RN102249299 Rodriguez Best Pic & Meats Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 47159
REGISTRATION

Location: 1701 E MILE 5N, WESLACO, TX, 78596

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: December 08, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 08, 2003 to December 08, 2008

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

Name: Brianna Carlson Phone: 956/430-6021

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? RODRIGUEZ, EUSEBIO JR
4. If Yes, who was/were the prior owner(s)? RODRIGUEZ, GILBERTO
5. When did the change(s) in ownership occur? 11/01/2006
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 11/24/2008 (704826)
 - 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
EUSEBIO RODRIGUEZ, JR. DBA
RODRIGUEZ BEST PIC & MEATS
RN102249299

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§
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§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1872-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 Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 1701 East Mile 5 North in Weslaco, Hidalgo County, Texas (the "Facility").
2. The Respondent's one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 29, 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 Sixty-Two Dollars (\$8,062) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

The Respondent has paid Nine Hundred Ninety Dollars (\$990) of the administrative penalty and One Thousand Six Hundred Twelve Dollars (\$1,612) 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 Five Thousand Four Hundred Sixty Dollars (\$5,460) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Fifty-Six Dollars (\$156) 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 Facility:
 - a. Submitted a properly completed updated UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on November 6, 2008;
 - b. Labeled the UST with an identification number that matches the number listed on the UST registration and self-certification form on November 6, 2008;
 - c. Began conducting proper inventory control procedures for the UST on November 6, 2008;
 - d. Replaced the bucket on the unleaded dispenser sump and installed water tight gaskets on the fuel drop cover lids on November 6, 2008; and
 - e. Implemented a release detection method for the UST on December 22, 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 Facility, the Respondent is alleged to have:

1. Failed to obtain a delivery certificate by submitting a properly completed UST registration and self-certification form to the agency within 30 days of ownership change, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(C), as documented during an investigation conducted on October 6, 2008. Specifically, the registration was not updated to reflect the ownership change on November 1, 2006.
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST, 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 6, 2008. Specifically, the Respondent received 19 deliveries of fuel without a delivery certificate.
3. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on October 6, 2008.
4. Failed to conduct effective manual or automatic inventory control procedures for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on October 6, 2008.
5. Failed to monitor the UST for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) as documented during an investigation conducted on October 6, 2008. Specifically, the automatic tank gauge was not put into test mode monthly.
6. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on October 6, 2008. Specifically, the sump bucket on the unleaded gasoline fuel compartment was cracked and two fuel drop cover lids were missing the water-tight gasket.

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: Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats, Docket No. 2008-1872-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 Facility 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
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

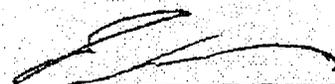
Date 6/26/2009

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.

 J.R.

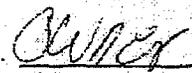
Signature

6-22-09

Date

Eusebio Rodriguez, Jr.

Name (Printed or typed)
Authorized Representative of
Eusebio Rodriguez, Jr. dba Rodriguez Best Pic & Meats



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.

