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**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0647-PST-E **TCEQ ID:** RN102374428 and RN101443190  
**CASE NO.:** 39560  
**RESPONDENT NAME:** Horseshoe Bay Resort, Ltd.

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Caprock Maintenance Facility ("Facility 1"), 2622 Bay West Boulevard, Horseshoe Bay, Llano County and Ramrock Maintenance Facility ("Facility 2"), 102 Fault Line Drive, Horseshoe Bay, Llano County

**TYPE OF OPERATION:** Fleet refueling facilities

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on August 23, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None  
**TCEQ Enforcement Coordinator:** Mr. Keith Frank, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-1203; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  
**Respondent:** Mr. Brad Hatfield, Registered Agent, Horseshoe Bay Resort, Ltd., 9000 Highway 2147 West, Suite 101, Horseshoe Bay, Texas 78657  
 Mr. Robert Terry, CFO, Horseshoe Bay Resort, Ltd., 9000 Highway 2147 West, Suite 101, Horseshoe Bay, Texas 78657  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 12, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 14, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>Facility 1:</p> <p>1) Failure to maintain the required underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failure to provide proper release detection for the pressurized piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>3) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>4) Failure to inspect at least once every 60 days any sumps, manways, overflow containers, or catchment basins to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid and debris. Specifically, the spill bucket was filled with liquid [30 TEX. ADMIN. CODE § 334.42(i)].</p> <p>5) Failure to install an emergency shutoff valve (also known as a shear or</p>	<p><b>Total Assessed:</b> \$12, 531</p> <p><b>Total Deferred:</b> \$2,505  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$296 (remaining \$9,730 due in 35 monthly payments of \$278 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facilities:</p> <p>a. Conducted the required annual piping tightness test and line leak detector test for Facility 1 on March 19, 2010, with passing results;</p> <p>b. Began conducting bimonthly inspections of the overflow container on April 12, 2010 at Facility 1;</p> <p>c. Submitted documentation to the Austin Regional Office on April 12, 2010 reflecting the emergency shutoff valves at Facility 1 were securely anchored on March 19, 2010;</p> <p>d. Submitted documentation demonstrating that all necessary UST records were being maintained for Facility 1 on May 10, 2010;</p> <p>e. Conducted the required triennial testing of the cathodic protection system for Facility 2 on February 26, 2010, with passing results;</p> <p>f. Submitted documentation to the Austin Regional Office on April 12, 2010 reflecting that proper inventory control measures for Facility 2 were being conducted;</p> <p>g. Conducted the required testing of the suction piping for Facility 2 on March 19, 2010, with passing results; and</p> <p>h. Submitted documentation reflecting the UST fill tubes had been properly labeled at Facility 2 on May 5, 2010.</p>

impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valve at the dispenser was not securely anchored [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].

FACILITY 2:

1) 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 non-removable 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)].

2) Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].

3) Failure to provide proper release detection for the suction piping associated with the UST system. Specifically, the Respondent did not conduct the triennial piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2)(B)(i)(I) and TEX. WATER CODE § 26.3475(a)].

4) Failure to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].

5) Failure to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	19-Apr-2010	<b>Screening</b>	26-Apr-2010	<b>EPA Due</b>	
	<b>PCW</b>	26-Apr-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Horseshoe Bay Resort, Ltd. (Facility 1)	
<b>Reg. Ent. Ref. No.</b>	RN102374428	
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b> Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	39560	<b>No. of Violations</b>	4
<b>Docket No.</b>	2010-0647-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* **\$5,500**

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

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

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

**Notes** No adjustment due to compliance history.

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

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** *Subtotal 5* **\$1,225**

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

Total EB Amounts	\$1,216	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,100	

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$4,275**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 28.2% *Adjustment* **\$1,207**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2 and 3.

**Final Penalty Amount** **\$5,482**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$5,482**

**DEFERRAL** 20.0% Reduction *Adjustment* **-\$1,096**

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** **\$4,386**

Screening Date 26-Apr-2010

Docket No. 2010-0647-PST-E

PCW

Respondent Horseshoe Bay Resort, Ltd. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 39560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102374428

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 26-Apr-2010

Docket No. 2010-0647-PST-E

PCW

Respondent Horseshoe Bay Resort, Ltd. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 39560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102374428

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Violation Description Failed to maintain the required underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 73 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$100

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes The Respondent came into compliance on May 10, 2010 after the Notice of Enforcement ("NOE") dated April 14, 2010.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$1,154

This violation Final Assessed Penalty (adjusted for limits) \$1,154

## Economic Benefit Worksheet

**Respondent** Horseshoe Bay Resort, Ltd. (Facility 1)  
**Case ID No.** 39560  
**Reg. Ent. Reference No.** RN102374428  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	12-Feb-2010	10-May-2010	0.24	\$6	n/a	\$6
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST 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

\$500

TOTAL

\$6

**Screening Date** 26-Apr-2010  
**Respondent** Horseshoe Bay Resort, Ltd. (Facility 1)  
**Case ID No.** 39560  
**Reg. Ent. Reference No.** RN102374428  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Keith Frank

**Docket No.** 2010-0647-PST-E

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(2) and (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a)

**Violation Description**  
 Failed to provide proper release detection for the pressurized piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.

**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="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**>> Programmatic Matrix**

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

**Matrix Notes**  
 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**

**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"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="checkbox"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One annual event is recommended for the 12-month period preceding the February 12, 2010 investigation.

**Good Faith Efforts to Comply**

**Reduction**

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

**Notes**  
 The Respondent came into compliance on March 19, 2010 prior to the NOE dated April 14, 2010.

**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** Horseshoe Bay Resort, Ltd. (Facility 1)  
**Case ID No.** 39560  
**Reg. Ent. Reference No.** RN102374428  
**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
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No commas or \$

**Delayed Costs**

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

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	12-Feb-2009	19-Mar-2010	2.01	\$101	\$1,000	\$1,101
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for conducting annual piping tightness and line leak detector tests. Date Required is one year prior to the investigation date. Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,101

Screening Date 26-Apr-2010

Docket No. 2010-0647-PST-E

PCW

Respondent Horseshoe Bay Resort, Ltd. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 39560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102374428

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.42(i)

Violation Description

Failed to inspect at least once every 60 days any sumps, manways, overflow containers, or catchment basins to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid and debris. Specifically, the spill bucket was filled with liquid.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
Actual			
Potential			

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

59 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the February 12, 2010 investigation to the April 12, 2010 date of compliance.

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 April 12, 2010 prior to the NOE dated April 14, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$962

This violation Final Assessed Penalty (adjusted for limits) \$962

# Economic Benefit Worksheet

**Respondent** Horseshoe Bay Resort, Ltd. (Facility 1)

**Case ID No.** 39560

**Reg. Ent. Reference No.** RN102374428

**Media** Petroleum Storage Tank

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

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

Notes for DELAYED costs

**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]	\$100	14-Dec-2009	12-Apr-2010	1.24	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins and properly dispose of the liquid. Date Required is 60 days prior to the investigation date. Final Date is the date of compliance.

Approx. Cost of Compliance

\$100

**TOTAL**

\$106

Screening Date 26-Apr-2010

Docket No. 2010-0647-PST-E

PCW

Respondent Horseshoe Bay Resort, Ltd. (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 39560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102374428

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 334.45(c)(3)(A)

Violation Description

Failed to install an emergency shutoff valve (also known as a shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valve at the dispenser was not securely anchored.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
Actual			
Potential			

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

35 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the February 12, 2010 investigation to the March 19, 2010 date of compliance.

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 March 19, 2010 prior to the NOE dated April 14, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$962

This violation Final Assessed Penalty (adjusted for limits) \$962

# Economic Benefit Worksheet

**Respondent** Horseshoe Bay Resort, Ltd. (Facility 1)  
**Case ID No.** 39560  
**Reg. Ent. Reference No.** RN102374428  
**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	\$500	12-Feb-2010	19-Mar-2010	0.10	\$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 properly secure emergency shutoff valve. 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

\$500

TOTAL

\$3



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	19-Apr-2010	<b>Screening</b>	26-Apr-2010	<b>EPA Due</b>	
	<b>PCW</b>	26-Apr-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Horseshoe Bay Resort, Ltd. (Facility 2)
<b>Reg. Ent. Ref. No.</b>	RN101443190
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39560	<b>No. of Violations</b>	3
<b>Docket No.</b>	2010-0647-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,000
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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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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<b>Notes</b>	No adjustment due to compliance history.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,350
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$2,401	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,600	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,650
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	51.6%	<b>Adjustment</b>	\$2,399
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2 and 3.
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<b>Final Penalty Amount</b>	\$7,049
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,049
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,409
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$5,640
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Screening Date 26-Apr-2010

Docket No. 2010-0647-PST-E

PCW

Respondent Horseshoe Bay Resort, Ltd. (Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 39560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101443190

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 26-Apr-2010

Docket No. 2010-0647-PST-E

PCW

Respondent Horseshoe Bay Resort, Ltd. (Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 39560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101443190

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 1

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 non-removable point in the immediate area of the fill tube according to the underground storage tank ("UST") registration and self-certification form.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

73 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$100

	Before NOV	NOV to EDPRP/Settlement
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on May 5, 2010 after the Notice of Enforcement ("NOE") dated April 14, 2010.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,364

This violation Final Assessed Penalty (adjusted for limits) \$1,364

## Economic Benefit Worksheet

**Respondent:** Horseshoe Bay Resort, Ltd. (Facility 2)  
**Case ID No.:** 39560  
**Reg. Ent. Reference No.:** RN101443190  
**Media:** Petroleum Storage Tank  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$100	12-Feb-2010	5-May-2010	0.22	\$0	\$1	\$2
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to label tank fill pipes. 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

\$100

**TOTAL**

\$2

Screening Date 26-Apr-2010

Docket No. 2010-0647-PST-E

PCW

Respondent Horseshoe Bay Resort, Ltd. (Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 39560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101443190

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(4) and Tex. Water Code § 26.3475(d)

Violation Description Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential	x				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 1095 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended for the 3-year period preceding the February 12, 2010 investigation date.

Good Faith Efforts to Comply

25.0% Reduction

\$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent came into compliance on February 26, 2010 prior to the NOE dated April 14, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,198

Violation Final Penalty Total \$2,842

This violation Final Assessed Penalty (adjusted for limits) \$2,842

# Economic Benefit Worksheet

**Respondent** Horseshoe Bay Resort, Ltd. (Facility 2)  
**Case ID No.** 39560  
**Reg. Ent. Reference No.** RN101443190  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

**Delayed Costs**

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

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	12-Feb-2007	26-Feb-2010	3.96	\$198	\$1,000	\$1,198
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

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

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,198

Screening Date 26-Apr-2010

Docket No. 2010-0647-PST-E

PCW

Respondent Horseshoe Bay Resort, Ltd. (Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 39560

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101443190

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(2)(B)(i)(I), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to provide proper release detection for the suction piping associated with the UST system. Specifically, the Respondent did not conduct the triennial piping tightness test. Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 59 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the February 12, 2010 investigation to the April 12, 2010 date of compliance.

Good Faith Efforts to Comply

25.0% Reduction

\$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on April 12, 2010 prior to the NOE dated April 14, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,213

Violation Final Penalty Total \$2,842

This violation Final Assessed Penalty (adjusted for limits) \$2,842

# Economic Benefit Worksheet

**Respondent** Horseshoe Bay Resort, Ltd. (Facility 2)  
**Case ID No.** 39560  
**Reg. Ent. Reference No.** RN101443190  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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	11-Feb-2010	12-Apr-2010	0.16	\$12	n/a	\$12

Notes for DELAYED costs: Estimated cost to provide release detection for the USTs including recording daily volume measurement and monthly reconciliation of inventory control records. Date Required is one day prior to 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]	\$1,000	12-Feb-2007	19-Mar-2010	4.02	\$201	\$1,000	\$1,201
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs: Estimated avoided cost of conducting the piping tightness test. Date Required is three years prior to the investigation date. Final Date is the date of compliance.

Approx. Cost of Compliance	\$2,500	TOTAL	\$1,213
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN600749410 Horseshoe Bay Resort, Ltd. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN102374428 Caprock Maintenance Facility Classification: AVERAGE Site Rating: 3.01  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 58084  
REGISTRATION  
Location: 2622 BAY WEST BLVD, HORSESHOE BAY, TX, 78657  
TCEQ Region: REGION 11 - AUSTIN  
Date Compliance History Prepared: April 26, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: April 26, 2005 to April 26, 2010

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

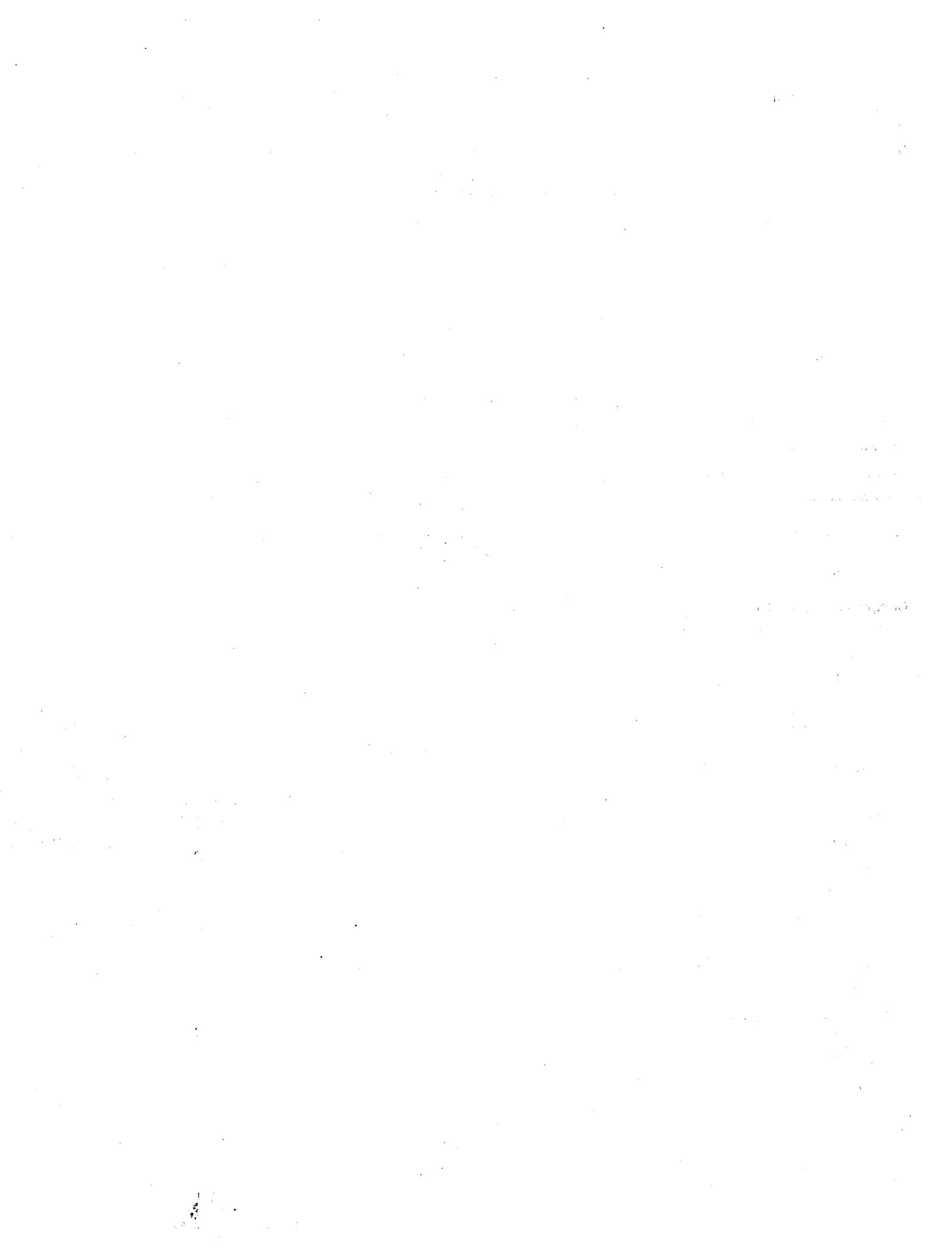
Name: Keith Frank Phone: (512) 239-1203

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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 04/13/2010 (792208)
  - 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



# Compliance History Report

Customer/Respondent/Owner-Operator: CN600749410 Horseshoe Bay Resort, Ltd. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN101443190 Ramrock Maintenance Facility Classification: AVERAGE Site Rating: 3.01  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 17242  
REGISTRATION  
Location: 102 FAULT LINE DRIVE HORSESHOE BAY TX 78657  
TCEQ Region: REGION 11 - AUSTIN  
Date Compliance History Prepared: April 26, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: April 26, 2005 to April 26, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Keith Frank Phone: (512) 239-1203

## 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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 04/13/2010 (793434)
  - 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  
HORSESHOE BAY RESORT, LTD.  
RN102374428 AND RN101443190

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2010-0647-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 Horseshoe Bay Resort, Ltd. ("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 the following fleet refueling facilities (collectively referred to as the "Facilities"):
  - a. Caprock Maintenance Facility ("Facility 1"), 2622 Bay West Boulevard in Horseshoe Bay, Llano County, Texas, with one underground storage tank ("UST"); and
  - b. Ramrock Maintenance Facility ("Facility 2"), 102 Fault Line Drive in Horseshoe Bay, Llano County, Texas, with three USTs.
2. The Respondent's four USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 19, 2010.

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 Twelve Thousand Five Hundred Thirty-One Dollars (\$12,531) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Ninety-Six Dollars (\$296) of the administrative penalty and Two Thousand Five Hundred Five Dollars (\$2,505) 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 Nine Thousand Seven Hundred Thirty Dollars (\$9,730) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Seventy-Eight Dollars (\$278) 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 Facilities:
  - a. Conducted the required annual piping tightness test and line leak detector test for Facility 1 on March 19, 2010, with passing results;
  - b. Began conducting bimonthly inspections of the overspill container on April 12, 2010 at Facility 1;
  - c. Submitted documentation to the Austin Regional Office on April 12, 2010 reflecting the emergency shutoff valves at Facility 1 were securely anchored on March 19, 2010;
  - d. Submitted documentation demonstrating that all necessary UST records were being maintained for Facility 1 on May 10, 2010;
  - e. Conducted the required triennial testing of the cathodic protection system for Facility 2 on February 26, 2010, with passing results;

- f. Submitted documentation to the Austin Regional Office on April 12, 2010 reflecting that proper inventory control measures for Facility 2 were being conducted;
  - g. Conducted the required testing of the suction piping for Facility 2 on March 19, 2010, with passing results; and
  - h. Submitted documentation reflecting the UST fill tubes had been properly labeled at Facility 2 on May 5, 2010.
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 Facilities, the Respondent is alleged to have:

1. At Facility 1:
  - a. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on February 12, 2010;
  - b. Failed to provide proper release detection for the pressurized piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 12, 2010. Specifically, the Respondent did not conduct the annual piping tightness test;
  - c. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 12, 2010;
  - d. Failed to inspect at least once every 60 days any sumps, manways, overfill containers, or catchment basins to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid and debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on February 12, 2010. Specifically, the spill bucket was filled with liquid; and

- e. Failed to install an emergency shutoff valve (also known as a shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an investigation conducted on February 12, 2010. Specifically, the shear valve at the dispenser was not securely anchored.
2. At Facility 2:
- a. 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 non-removable 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 February 12, 2010;
  - b. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on February 12, 2010;
  - c. Failed to provide proper release detection for the suction piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(B)(i)(I) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on February 12, 2010. Specifically, the Respondent did not conduct the triennial piping tightness test;
  - d. Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on February 12, 2010; and
  - e. Failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on February 12, 2010.

### 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: Horseshoe Bay Resort, Ltd., Docket No. 2010-0647-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 Facilities operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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

John Zeller  
For the Executive Director

8/25/2010  
Date

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

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

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

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]  
Signature

8/14/10  
Date

Robert Terry  
Name (Printed or typed)  
Authorized Representative of  
Horseshoe Bay Resort, Ltd.

CFO  
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.