

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 3  
**DOCKET NO.:** 2009-1151-PST-E **TCEQ ID:** RN102027091 **CASE NO.:** 38001  
**RESPONDENT NAME:** Hempstead Independent School District

<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
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Hempstead ISD Transportation, 801 Donoho Street, Hempstead, Waller County</p> <p><b>TYPE OF OPERATION:</b> Fleet refueling facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 25, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Floyd Richard, Director of Operations, Hempstead Independent School District, P.O. Box 1007, Hempstead, Texas 77445  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**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> May 18, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 17, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to maintain the required underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failure to provide an amended UST registration to the agency for any change or additional information regarding the UST within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate the correct type of fuel being stored in the UST system [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>3) Failure to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on October 31, 2002 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>4) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p>	<p><b>Total Assessed:</b> \$11,875</p> <p><b>Total Deferred:</b> \$2,375  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$9,500</p> <p><b>Total Paid to General Revenue:</b> \$9,500</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 Station:</p> <p>a. Began maintaining all UST records on October 12, 2009;</p> <p>b. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on June 9, 2009;</p> <p>c. Successfully conducted the required line leak detectors tests on July 22, 2009;</p> <p>d. Began conducting daily and monthly inspections of the Stage II vapor recovery system on October 12, 2009; and</p> <p>e. Installed an ORVR compatible Stage II vapor recovery system on October 12, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A.)</p> <p>2. The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, ensure that at least once Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 2.a.</p>

<p>5) Failure to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>6) Failure to conduct daily and monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>7) Failure to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>8) Failure to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems [30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): PST No. 56044



**Attachment A**  
**Docket Number: 2009-1151-PST-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Hempstead Independent School District</b>
<b>Payable Penalty Amount:</b>	<b>Nine Thousand Five Hundred Dollars (\$9,500)</b>
<b>SEP Amount:</b>	<b>Nine Thousand Five Hundred Dollars (\$9,500)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Water or Wastewater Treatment Assistance</b>
<b>Location of SEP:</b>	<b>Waller County</b>

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

**1. Project Description**

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.



C. Minimum Expenditure

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

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

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



**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

## TCEQ

<b>DATES</b>	Assigned	20-Jul-2009		
	PCW	22-Jul-2009	Screening	22-Jul-2009
			EPA Due	

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Hempstead Independent School District
Reg. Ent. Ref. No.	RN102027091
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38001	No. of Violations	7
Docket No.	2009-1151-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	Subtotal 1	\$14,000
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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	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment due to compliance history.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	Subtotal 5	\$2,125
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<b>Economic Benefit</b>	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,361
Approx. Cost of Compliance	\$5,550

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	Final Subtotal	\$11,875
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: \$11,875

<b>STATUTORY LIMIT ADJUSTMENT</b>	Final Assessed Penalty	\$11,875
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<b>DEFERRAL</b>	20.0% Reduction	Adjustment	-\$2,375
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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.

<b>PAYABLE PENALTY</b>		\$9,500
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Screening Date 22-Jul-2009

Docket No. 2009-1151-PST-E

PCW

Respondent Hempstead Independent School District

Policy Revision 2 (September 2002)

Case ID No. 38001

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102027091

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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%

<b>Screening Date</b> 22-Jul-2009	<b>Docket No.</b> 2009-1151-PST-E	<b>PCW</b>	
<b>Respondent</b> Hempstead Independent School District	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 38001	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102027091			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b> <input type="text" value="1"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.10(b)		
<b>Violation Description</b>	Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>OR</b>	<b>Harm</b>		
	Major	Moderate	Minor
<b>Release</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
			<b>Harm</b>
			Major    Moderate    Minor
<b>Falsification</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	x	<input type="text"/>	<input type="text"/>
			<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.		
<b>Adjustment</b>		<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>	
<b>Violation Events</b>			
<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	<input type="text" value="65"/>
<i>mark only one with an x</i>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	x	
One single event is recommended based on documentation of the violation during the May 18, 2009, investigation.			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/> Reduction	<input type="text" value="\$0"/>
	Before NOV	NOV to EDRP/Settlement Offer	
<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>	
<b>Ordinary</b>	<input type="text"/>	<input type="text"/>	
<b>N/A</b>	x	(mark with x)	
<b>Notes</b>	The Respondent came into compliance on October 12, 2009 after the initial proposed order mailout date of September 16, 2009, therefore the Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>		<input type="text" value="\$1,000"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$10"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,000"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$1,000"/>	

## Economic Benefit Worksheet

**Respondent** Hempstead Independent School District  
**Case ID No.** 38001  
**Reg. Ent. Reference No.** RN102027091  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$500	18-May-2009	12-Oct-2009	0.40	\$10	n/a	\$10
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain all UST records. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$10

<b>Screening Date</b> 22-Jul-2009	<b>Docket No.</b> 2009-1151-PST-E	<b>PCW</b>			
<b>Respondent</b> Hempstead Independent School District		<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 38001		<small>PCW Revision October 30, 2009</small>			
<b>Reg. Ent. Reference No.</b> RN102027091					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluga					
<b>Violation Number</b> 2					
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)				
<b>Violation Description</b>	Failed to provide an amended UST registration to the agency for any change or additional information regarding the UST within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate correct type of fuel being stored in the UST system. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on October 31, 2002.				
	<b>Base Penalty</b>	\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> 0%
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> 10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
	<b>Adjustment</b>	\$9,000			
		\$1,000			
<b>Violation Events</b>					
	<b>Number of Violation Events</b>	7	2414	<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	x			
	single event	<input type="text"/>			
	Seven annual events are recommended based on documentation of the violation during the May 18, 2009, investigation.				
<b>Good Faith Efforts to Comply</b>		25.0%	<b>Reduction</b>	\$1,750	
	Before NOV	NOV to EDRP/Settlement Offer			
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	x	<input type="text"/>			
N/A	<input type="text"/>	(mark with x)			
<b>Notes</b>	The Respondent came into compliance on June 9, 2009, prior to the Notice of Enforcement dated July 17, 2009.				
	<b>Violation Subtotal</b>	\$5,250			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
	<b>Estimated EB Amount</b>	\$827	<b>Violation Final Penalty Total</b>	\$5,250	
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$5,250	

## Economic Benefit Worksheet

**Respondent** Hempstead Independent School District  
**Case ID No.** 38001  
**Reg. Ent. Reference No.** RN102027091  
**Media** Petroleum Storage Tank  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	18-May-2009	9-Jun-2009	0.06	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to accurately prepare and submit an updated UST registration to reflect the correct type of fuel being stored in the UST. The date required is the date of the investigation and the final date is the compliance date.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance (2)				0.00	\$0	\$0	\$0
ONE-TIME avoided costs (3)	\$600	1-Oct-2002	18-May-2009	7.55	\$227	\$600	\$827
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 Estimated avoided cost (\$100 per full year) to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate. The date required is 30 days prior to the expiration date of the delivery certificate and the final date is the investigation date.

<b>Approx. Cost of Compliance</b>	\$700	<b>TOTAL</b>	\$827
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<b>Screening Date</b> 22-Jul-2009	<b>Docket No.</b> 2009-1151-PST-E	<b>PCW</b>		
<b>Respondent</b> Hempstead Independent School District	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 38001	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102027091				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b> 3				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)			
<b>Violation Description</b>	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 one delivery of fuel without a delivery certificate.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual			
	Potential		x	
		<b>Percent</b>	5%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>		\$9,500		
		\$500		
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	
		1		
<small>mark only one with an x</small>	daily			
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
		<b>Violation Base Penalty</b>	\$600	
One single event is recommended.				
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	\$125	
		Before NOV	NOV to EDP/PP/Settlement Offer	
Extraordinary				
Ordinary	x			
N/A			(mark with x)	
<b>Notes</b>	The Respondent came into compliance on June 9, 2009, prior to the Notice of Enforcement dated July 17, 2009.			
<b>Violation Subtotal</b>		\$375		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b>	
			\$375	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$375		



<b>Screening Date:</b> 22-Jul-2009	<b>Docket No.:</b> 2009-1151-PST-E	<b>PCW</b>		
<b>Respondent:</b> Hempstead Independent School District	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.:</b> 38001	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.:</b> RN102027091				
<b>Media [Statute]:</b> Petroleum Storage Tank				
<b>Enf. Coordinator:</b> Judy Kluge				
<b>Violation Number:</b> 4				
<b>Rule Cite(s):</b>	30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a)			
<b>Violation Description:</b>	Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<b>Percent</b>	25%	
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>			<b>Harm</b>	
Major			Moderate	Minor
<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%	
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>		\$7,500		
		\$2,500		
<b>Violation Events</b>				
<b>Number of Violation Events:</b>		1	<b>Number of violation days:</b> 365	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input checked="" type="checkbox"/>		
	single event	<input type="checkbox"/>		
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">                 One annual event is recommended for the 12-month period preceding the May 18, 2009 investigation.             </div>			\$2,500	
<b>Good Faith Efforts to Comply</b>		10.0% Reduction	\$250	
		Before NOV    NOV to EDRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
N/A	<i>(mark with x)</i>			
<b>Notes</b>	The Respondent came into compliance on July 22, 2009.			
<b>Violation Subtotal</b>		\$2,250		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	\$1,058	<b>Violation Final Penalty Total</b>	\$2,250	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$2,250	

## Economic Benefit Worksheet

**Respondent** Hempstead Independent School District  
**Case ID No.** 38001  
**Reg. Ent. Reference No.** RN102027091  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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	28-Apr-2009	22-Jul-2009	1.15	\$58	\$1,000	\$1,058
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the required testing. The date required is the date the test was due and the final date is the compliance date.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,058



## Economic Benefit Worksheet

**Respondent** Hempstead Independent School District  
**Case ID No.** 38001  
**Reg. Ent. Reference No.** RN102027091  
**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
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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]	\$350	18-Apr-2009	12-Oct-2009	1.40	\$25	\$350	\$375
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct daily inspections of the Stage II system. The date required is one month prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$350

TOTAL

\$375

<b>Screening Date</b> 22-Jul-2009	<b>Docket No.</b> 2009-1151-PST-E	<b>PCW</b>		
<b>Respondent</b> Hempstead Independent School District	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 38001	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102027091				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b>	6			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system.			
<b>Base Penalty</b>	\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			<b>Percent</b>	10%
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<b>Percent</b>	0%
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>			\$9,000	
			\$1,000	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	1	85	<b>Number of violation days</b>
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	weekly	<input type="checkbox"/>	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	<input type="checkbox"/>	
One quarterly event is recommended based on documentation of the violation during the May 18, 2009, investigation to the July 22, 2009, screening date.				
<b>Good Faith Efforts to Comply</b>			0.0%	<b>Reduction</b>
			Before NOV	NOV to EDP/RP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<small>(mark with x)</small>	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>			\$1,000	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
	<b>Estimated EB Amount</b>	\$21	<b>Violation Final Penalty Total</b>	\$1,000
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
			\$1,000	

## Economic Benefit Worksheet

**Respondent:** Hempstead Independent School District  
**Case ID No.:** 38001  
**Reg. Ent. Reference No.:** RN102027091  
**Media:** Petroleum Storage Tank  
**Violation No.:** 6

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$500	18-May-2009	22-Mar-2010	0.84	\$21	n/a	\$21
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 of training a Stage II Station representative and conduct in-house employee Stage II training. The date required is the investigation date and the final date is the expected 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**

\$21

<b>Screening Date</b> 22-Jul-2009	<b>Docket No.</b> 2009-1151-PST-E	<b>PCW</b>		
<b>Respondent</b> Hempstead Independent School District	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 38001	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102027091				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b> 7				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(1)(C) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
Major      Moderate      Minor				
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>			\$9,000	
			\$1,000	
<b>Violation Events</b>				
<b>Number of Violation Events</b> <input type="text" value="1"/>		<b>Number of violation days</b> <input type="text" value="65"/>		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
One quarterly event is recommended based on documentation of the violation during the May 18, 2009, investigation to the July 22, 2009, screening date.				
<b>Good Faith Efforts to Comply</b>				
		<b>0.0% Reduction</b>	\$0	
		<small>Before NOV      NOV to EDRP/Settlement Offer</small>		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent came into compliance on October 12, 2009 after the initial proposed order mailout date of September 16, 2009, therefore the Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>			\$1,000	
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b> <input type="text" value="\$70"/>		<b>Statutory Limit Test</b>		
<b>Violation Final Penalty Total</b>			\$1,000	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$1,000	

## Economic Benefit Worksheet

**Respondent** Hempstead Independent School District  
**Case ID No.** 38001  
**Reg. Ent. Reference No.** RN102027091  
**Media:** Petroleum Storage Tank  
**Violation No.** 7

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$2,500	18-May-2009	12-Oct-2009	0.40	\$3	\$67	\$70
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 upgrade the Stage II equipment to ORVR compatible systems. The date required is the investigation date and the final date is the compliance date.

**Avoided Costs**

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

	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**      \$2,500      **TOTAL**      \$70

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600960983 Hempstead Independent School District Classification: AVERAGE Rating: 3.01

Regulated Entity: RN102027091 HEMPSTEAD ISD TRANSPORTATION Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 56044  
REGISTRATION

Location: 801 DONOHO ST, HEMPSTEAD, TX, 77445

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 21, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 21, 2004 to July 21, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Judy Kluge Phone: 817/588-5825

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/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: 9/1/2008 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 07/17/2009 (746365)
- 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  
HEMPSTEAD INDEPENDENT  
SCHOOL DISTRICT  
RN102027091

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-1151-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 Hempstead Independent School District ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a fleet fueling facility at 801 Donoho Street in Hempstead, Waller County, Texas (the "Station").
2. The Respondent's one underground storage tank ("UST") and one aboveground storage tank ("AST") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about July 22, 2009.
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 Eleven Thousand Eight Hundred Seventy-Five Dollars (\$11,875) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Three Hundred Seventy-Five Dollars (\$2,375) of the administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Nine Thousand Five Hundred Dollars (\$9,500) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
  - a. Began maintaining all UST records on October 12, 2009;
  - b. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on June 9, 2009;
  - c. Successfully conducted the required line leak detectors tests on July 22, 2009;
  - d. Began conducting daily and monthly inspections of the Stage II vapor recovery system on October 12, 2009; and
  - e. Installed an approved onboard refueling vapor recovery ("ORVR") compatible Stage II vapor recovery system on October 12, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on May 18, 2009.
2. Failed to provide an amended UST registration to the agency for any change or additional information regarding the UST within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on May 18, 2009. Specifically, the registration was not amended to indicate the correct type of fuel being stored in the UST system.
3. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on May 18, 2009. Specifically, the delivery certificate expired on October 31, 2002.
4. 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 May 18, 2009.
5. 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 May 18, 2009. Specifically, the line leak detectors had not been performance tested annually.
6. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigations conducted on May 18, 2009.
7. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 18, 2009.
8. Failed to upgrade the Stage II equipment to ORVR compatible systems, in violation of 30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 18, 2009.

### 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: Hempstead Independent School District, Docket No. 2009-1151-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I. Jurisdiction and Stipulations, Paragraph 6 above, Nine Thousand Five Hundred Dollars (\$9,500) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, ensure that at least once Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in accordance 30 TEX. ADMIN. CODE § 115.248; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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 Szallie*  
For the Executive Director

12/23/2009  
Date

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

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

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

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

*F.R.*  
Signature

16 Nov 09  
Date

Floyd Richard  
Name (Printed or typed)  
Authorized Representative of  
Hempstead Independent School District

Director of Operations  
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.

Attachment A  
Docket Number: 2009-1151-PST-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Hempstead Independent School District</b>
<b>Payable Penalty Amount:</b>	<b>Nine Thousand Five Hundred Dollars (\$9,500)</b>
<b>SEP Amount:</b>	<b>Nine Thousand Five Hundred Dollars (\$9,500)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D")- Water or Wastewater Treatment Assistance</b>
<b>Location of SEP:</b>	<b>Waller County</b>

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

**1. Project Description**

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation and Development Areas, Inc.  
1716 Briarcrest Drive, Suite 510  
Bryan, Texas 77802-2700

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

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

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

**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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

