

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2009-1494-PST-E **TCEQ ID:** RN102281821 **CASE NO.:** 38414  
**RESPONDENT NAME:** First National Bank of Hebbbronville

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input checked="" type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Mr. B's, located on Highway 339, one block south of the Highway 339 and Highway 359 intersection, Benavides, Duval County</p> <p><b>TYPE OF OPERATION:</b> Property with two inactive underground storage tanks ("USTs")</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input 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 February 1, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Theresa Hagood, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2540; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Israel Hinojosa, President &amp; CEO, First National Bank of Hebbbronville, P.O. Box 99, Hebbbronville, Texas 78361  <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> September 10, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 10, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p>	<p><b>Total Assessed:</b> \$2,375</p> <p><b>Total Deferred:</b> \$475  <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 to General Revenue:</b> \$1,900</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 permanently removed the UST system from service on October 1, 2009.</p>

Additional ID No(s): PST 20976



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	14-Sep-2009	<b>Screening</b>	21-Sep-2009	<b>EPA Due</b>	
	<b>PCW</b>	21-Sep-2009				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	First National Bank of Hebbronville		
<b>Reg. Ent. Ref. No.</b>	RN102281821		
<b>Facility/Site Region</b>	16-Laredo	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	38414	<b>No. of Violations</b>	1
<b>Docket No.</b>	2009-1494-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>	Theresa Hagood
		<b>EC's Team</b>	Enforcement Team 6
<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** **\$2,500**

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

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

**Compliance History** 5.0% Enhancement **Subtotals 2, 3, & 7** **\$125**

**Notes** Enhancement for one NOV with same or similar violation.

**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** **\$250**

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

Total EB Amounts	\$1,314	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,000	

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$2,375**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$2,375**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$2,375**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$475**

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

**Notes**

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$1,900**

Screening Date: 21-Sep-2009

Docket No: 2009-1494-PST-E

PCW

Respondent: First National Bank of Hebronville

Policy Revision 2 (September 2002)

Case ID No: 38414

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN102281821

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Theresa Hagood

### 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)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions:	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> 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

Enhancement for one NOV with same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 21-Sep-2009

Docket No. 2009-1494-PST-E

PCW

Respondent First National Bank of Hebronville

Policy Revision 2 (September 2002)

Case ID No. 38414

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102281821

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.47(a)(2)

Violation Description

Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	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

11 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the September 10, 2009 investigation to the September 21, 2009 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes

The Respondent came into compliance on October 1, 2009 after the NOE date of September 10, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,314

Violation Final Penalty Total \$2,375

This violation Final Assessed Penalty (adjusted for limits) \$2,375

## Economic Benefit Worksheet

**Respondent:** First National Bank of Hebronville  
**Case ID No:** 38414  
**Reg. Ent. Reference No:** RN102281821  
**Media:** Petroleum Storage Tank  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$6,000	16-May-2005	1-Oct-2009	4.38	\$1,314	n/a	\$1,314

Notes for DELAYED costs

Estimated cost to permanently remove from service two USTs with a combined capacity of 8,000 gallons at \$0.75 per gallon. Date Required is the date when the bank foreclosed on the property. 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

\$8,000

TOTAL

\$1,314

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603443557    First National Bank of Hebbbronville	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN102281821    MR B's	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	20976
Location:	HWY 339 1 BLK S of HWY 339 and 359 intersection in Benavides, Duval County.		
TCEQ Region:	REGION 16 - LAREDO		
Date Compliance History Prepared:	September 15, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 15, 2004 to September 15, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Theresa Hagood	Phone:	239 - 2540

### 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? Yes
3. If Yes, who is the current owner/operator?  
First National Bank of Hebbbronville
4. If Yes, who was/were the prior owner(s)/operator(s) ?  
Frank S. Barton
5. When did the change(s) in owner or operator occur?  
May 16, 2005
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	01/30/2009	(725448)
2	05/13/2009	(745640)
3	09/10/2009	(775757)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	01/30/2009	(725448)			
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 334, SubChapter C 334.47(a)(2)				
Description:	Failure to have an out of service UST system upgraded to meet all technical requirements.				
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 334, SubChapter C 334.54(d)				
Description:	Failure to empty the UST's to less than 2.5 centimeters (1 inch) of petroleum product.				
Self Report?	NO		Classification:	Moderate	
Citation:	30 TAC Chapter 334, SubChapter C 334.54(b)(2)				
Description:	Failure to assure that the vent lines are kept open and functioning and all other piping, pumps, man ways and ancillary equipment has been capped, plugged,				

locked and/or otherwise secured to prevent access, tampering or vandalism by unauthorized persons.

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  
FIRST NATIONAL BANK OF  
HEBBRONVILLE  
RN102281821**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-1494-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 First National Bank of Hebronville ("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 property with two inactive underground storage tanks ("USTs") located on Highway 339, one block south of the Highway 339 and Highway 359 intersection in Benavides, Duval County, Texas (the "Facility").
2. The Facility's two 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 September 15, 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 Two Thousand Three Hundred Seventy-Five Dollars (\$2,375) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Nine Hundred Dollars (\$1,900) of the administrative penalty and Four Hundred Seventy-Five Dollars (\$475) 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 to pay all or part of the deferred penalty.
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 permanently removed the UST system from service on October 1, 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 of the Facility, the Respondent is alleged to have failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2), as documented during an investigation conducted on September 10, 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: First National Bank of Hebbbronville, Docket No. 2009-1494-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.
3. 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.
4. 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.
5. 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

*Jolie J. Quinn*  
For the Executive Director

1/8/2010  
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.

*Israel Hinojosa*  
Signature

11/20/2009  
Date

Israel Hinojosa  
Name (Printed or typed)  
Authorized Representative of  
First National Bank of Hebbbronville

President + CEO  
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.