

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

Page 1 of 2

**DOCKET NO.:** 2009-1647-PST-E **TCEQ ID:** RN102890571 **CASE NO.:** 38519  
**RESPONDENT NAME:** PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594

|   |   |  |
|---|---|--|
| <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> CRLLC 2706594, 3321 Garland Avenue, Garland, Dallas County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</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 April 12, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Armen Mkrtchian, CA Compliance Manager, PACIFIC CONVENIENCE &amp; FUELS, LLC, 2603 Camino Ramon, San Ramon, California 94583<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

DOCKET NO.: 2009-1647-PST-E

| VIOLATION SUMMARY CHART:   |  |  |
|--|--|--|
| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b><br/>None</p> <p><b>Date of Investigation Relating to this Case:</b><br/>September 15, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b><br/>September 30, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification. Specifically, the Respondent did not conduct the required annual and triennial testing of the Stage II equipment by the due date of April 7, 2009 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failure to provide an amended underground storage tank ("UST") registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate current ownership of the UST system [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> | <p><b>Total Assessed:</b> \$10,571</p> <p><b>Total Deferred:</b> \$2,114<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$8,457</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input 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 successfully conducted the required annual and triennial testing of the Stage II equipment on October 6, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Post operating instructions on the dispensers; and</p> <p>ii. Submit an amended registration to indicate current ownership of the UST system.</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 Provisions a.i. and a.ii.</p> |

Additional ID No(s): PST No. 45529



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

|       |          |            |           |            |         |  |
|-------|----------|------------|-----------|------------|---------|--|
| DATES | Assigned | 7-Oct-2009 | Screening | 7-Oct-2009 | EPA Due |  |
|       | PCW      | 8-Oct-2009 |           |            |         |  |

|  |  |                    |       |
|--|--|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |                    |       |
| Respondent                             | PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594 |                    |       |
| Reg. Ent. Ref. No.                     | RN102890671  |                    |       |
| Facility/Site Region                   | 4-Dallas/Fort Worth                                | Major/Minor Source | Major |

|                                 |                        |                       |                    |
|---------------------------------|------------------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b>         |                        |                       |                    |
| Enf./Case ID No.                | 38519                  | No. of Violations     | 3                  |
| Docket No.                      | 2009-1647-PST-E        | Order Type            | 1660               |
| Media Program(s)                | Petroleum Storage Tank | Government/Non-Profit | No                 |
| Multi-Media                     |                        | Enf. Coordinator      | Judy Kluge         |
|                                 |                        | EC's Team             | Enforcement Team 6 |
| Admin. Penalty \$ Limit Minimum | \$0                    | Maximum               | \$10,000           |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History** **Subtotals 2, 3, & 7**

Notes

**Culpability** **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit** **Subtotal 6**

Total EB Amounts  0.0% Enhancement\*  
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL** **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 7-Oct-2009

Docket No. 2009-1647-PST-E

PCW

Respondent PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 27

Policy Revision 2 (September 2002)

Case ID No. 38519

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102890571

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%      |
| <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) 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 7-Oct-2009

Docket No. 2009-1647-PST-E

PCW

Respondent PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594

Policy Revision 2 (September 2002)

Case ID No. 38519

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102890571

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification. Specifically, the Respondent did not conduct the required annual and triennial testing of the Stage II equipment by the due date of April 7, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (50%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 182

Table for frequency selection: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$5,000

One single event is recommended for the period preceding the September 15, 2009 investigation.

Good Faith Efforts to Comply

Table for Good Faith Efforts to Comply with columns: Reduction (10.0%), Before NOV, NOV to EDPRP/Settlement Offer.

\$500

Notes The Respondent came into compliance on October 6, 2009.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$1,071

Statutory Limit Test

Violation Final Penalty Total \$5,007

This violation Final Assessed Penalty (adjusted for limits) \$5,007

# Economic Benefit Worksheet

**Respondent** PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594  
**Case ID No.** 38519  
**Reg. Ent. Reference No.** RN102890571  
**Media** Petroleum Storage Tank  
**Violation No.** 1

|                         |                              |
|-------------------------|------------------------------|
| <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                |           |               |            | 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)

|                               | 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]    | \$1,000   | 7-Apr-2009    | 6-Oct-2009 | 1.42 | \$71           | \$1,000       | \$1,071   |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Estimated avoided cost for conducting the Stage II system compliance tests. The date required is the date the tests were due and the final date is the compliance date.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,071

Screening Date 7-Oct-2009

Docket No. 2009-1647-PST-E

PCW

Respondent PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594

Policy Revision 2 (September 2002)

Case ID No. 38519

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102890571

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Rule Cite(s)

30 Tex. Adm'n. Code § 115.242(9) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

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 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1

22 Number of violation days

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | weekly       |   |
|                         | monthly      |   |
|                         | quarterly    | X |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the September 15, 2009 investigation to the October 7, 2009 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDRP/Settlement Offer

\$0

|               |   |               |
|---------------|---|---------------|
| Extraordinary |   |               |
| Ordinary      |   |               |
| N/A           | X | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,782

This violation Final Assessed Penalty (adjusted for limits) \$2,782

# Economic Benefit Worksheet

**Respondent** PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594

**Case ID No.** 38519

**Reg. Ent. Reference No.** RN102890571

**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)        | \$100 | 15-Sep-2009 | 8-Apr-2010 | 0.56 | \$3 | n/a | \$3 |

Notes for DELAYED costs

Estimated cost to post operating instructions on the dispensers. The date required is the investigation date and the final date is the expected 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]    |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

Screening Date 7-Oct-2009

Docket No. 2009-1647-PST-E

PCW

Respondent PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594

Policy Revision 2 (September 2002)

Case ID No. 38519

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102890571

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate current ownership of the UST system.

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 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

22 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 based on documentation of the violation during the September 15, 2009 investigation.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDRP/ Settlement Offer

\$0

|               |                 |
|---------------|-----------------|
| Extraordinary |                 |
| Ordinary      |                 |
| N/A           | x (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$2,782

This violation Final Assessed Penalty (adjusted for limits) \$2,782

## Economic Benefit Worksheet

**Respondent** PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594  
**Case ID No.** 38519  
**Reg. Ent. Reference No.** RN102890571  
**Media** Petroleum Storage Tank  
**Violation No.** 3

|                         |                              |
|-------------------------|------------------------------|
| <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 Description         | Item Cost | Date Required | Final Date | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Equipment                |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Buildings                |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Land                     |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Permit Costs             | \$100     | 31-May-2008   | 8-Apr-2010 | 1.85 | \$9            | n/a           | \$9       |
| Other (as needed)        |           |               |            | 0.00 | \$0            | n/a           | \$0       |

**Notes for DELAYED costs:** The delayed cost includes the estimated amount required to amend the UST registration to reflect the correct owner information. The date required is 30 days after the ownership change date of May 1, 2008, and the final date is the date of expected date of compliance.

**Avoided Costs**

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

| Item Description              | Item Cost | Date Required | Final Date | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal                      |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Personnel                     |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Inspection/Reporting/Sampling |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Supplies/equipment            |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Financial Assurance [2]       |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| ONE-TIME avoided costs [3]    |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

**Notes for AVOIDED costs:**

**Approx. Cost of Compliance**

\$100

**TOTAL**

\$9

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603539164 PACIFIC CONVENIENCE & FUELS, LLC Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN102890571 CRLLC 2706594 Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 45529  
Location: 3321 S GARLAND AVE, GARLAND, TX, 75041  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: October 07, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: October 07, 2004 to October 07, 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? Yes
3. If Yes, who is the current owner/operator? Pacific Convenience & Fuels, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ? Conoco Phillips Company
5. When did the change(s) in owner or operator occur? 05/01/2008
6. Rating Date: 9/1/2009 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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. 09/29/2009 (776956)
  - 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  
PACIFIC CONVENIENCE & FUELS,  
LLC DBA CRLLC 2706594  
RN102890571

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-1647-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 PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594 ("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 a convenience store with retail sales of gasoline at 3321 Garland Avenue in Garland, Dallas County, Texas (the "Station").
2. The Respondent's six underground storage tanks ("USTs") 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 notice of the violations alleged in Section II ("Allegations") on or about October 5, 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 Ten Thousand Five Hundred Seventy-One Dollars (\$10,571) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Four Hundred Fifty-Seven Dollars (\$8,457) of the administrative penalty and Two Thousand One Hundred Fourteen Dollars (\$2,114) 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.
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 successfully conducted the required annual and triennial testing of the Stage II equipment on October 6, 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 verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 15, 2009. Specifically, the Respondent did not conduct the required annual and triennial testing of the Stage II equipment by the due date of April 7, 2009.
2. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 15, 2009.

3. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs 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 September 15, 2009. Specifically, the registration was not amended to indicate current ownership of the UST system.

### 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: PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594; Docket No. 2009-1647-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. 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:
  - i. Post operating instructions on the dispensers, in accordance with 30 TEX. ADMIN. CODE § 115.242; and
  - ii. Submit an amended registration to indicate current ownership of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting & Registration Support Division, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- 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 Nos. 2.a.i. and 2.a.ii. 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  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

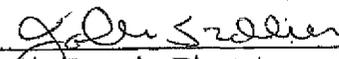
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any 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.
5. 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.
6. 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.

7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 3/26/2010

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

\_\_\_\_\_  
Date January 20, 2010

Armen Mkrtychian  
Name (Printed or typed)  
Authorized Representative of  
PACIFIC CONVENIENCE & FUELS, LLC dba CRLLC 2706594

\_\_\_\_\_  
Title CA Compliance Manager

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.