

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1019-PST-E TCEQ ID RN101783728 CASE NO. 37889
RESPONDENT NAME: RIZ INVESTMENT, INC. DBA CIRCLE N FOOD MART

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

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

SITE WHERE VIOLATION(S) OCCURRED: 530 East Mulberry Street, Angleton, Brazoria County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired April 19, 2010.. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Anna M. Treadwell, Litigation Division, MC 175, (512) 239-0974
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Wallace Myers, Waste Enforcement Section, MC 128, (512) 239-6580

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Rizwan Rasheed Gaddi, Director, RIZ INVESTMENT, INC., 9894 Bissonnet Street, Suite 395, Houston, Texas 77036-8241

Respondent's Attorney: Mr. Geoff Connor, Connor Demond Law Firm, 7 Brazos Street, Suite 500, Austin, Texas 78701

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 27, 2009</p> <p>Date of NOE Relating to this Case: June 19, 2009</p> <p>Background Facts: Settlement was achieved before a petition was filed. The agreed order was signed on January 12, 2010. A revised agreed order was signed on June 11, 2010.</p> <p>Current Compliance Status: Respondent corrected violation nos. 1 – 5, but has not yet submitted documentation to certify compliance with violation no. 6. Respondent's delivery certificate expires in September 2010.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to obtain temporary delivery authorization prior to returning a temporarily out-of-service UST system to service [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(D)(i)]. Failed to make available to a common carrier a valid, current TCEQ delivery certificate or a TCEQ temporary delivery authorization before accepting delivery of a regulated substance into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)]. Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(3)(G)]. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)]. 	<p>Total Assessed: \$7,031</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$206/\$6,825</p> <p>The Respondent paid \$206 of the administrative penalty. The remaining amount of \$6,825 shall be payable in 35 monthly payments of \$195 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: This CN has no classification because it was not in existence prior to September 1, 2009.</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken: The Executive Director recognizes that Respondent performed the following corrective actions at the Station:</p> <ol style="list-style-type: none"> Submitted an updated UST registration and self-certification form and obtained a valid, current TCEQ delivery certificate on July 23, 2009; Replaced the vapor motors on dispenser nos. 1 and 2 and successfully tested the vapor recovery system on May 30, 2009; Obtained acceptable financial assurance for the USTs at the Station on July 2, 2009; and Recalibrated and repaired the corrosion protection system for all USTs at the Station on July 9, 2009. <p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, begin maintaining all Stage II records at the Station. Within 30 days, submit written certification demonstrating compliance.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to provide documentation that the corrosion protection system was installed and functioning properly [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)].</p> <p>6. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Jun-2009	Screening	23-Jun-2009	EPA Due	
	PCW	14-Dec-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	RIZ INVESTMENT, INC. dba Circle N Food Mart		
Reg. Ent. Ref. No.	RN101783728		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37889	No. of Violations	6
Docket No.	2009-1019-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Wallace Myers
		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** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$800**

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

Total EB Amounts **\$341** *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance **\$1,715**

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,700**

OTHER FACTORS AS JUSTICE MAY REQUIRE **4.9%** **Adjustment** **\$331**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 4.

Final Penalty Amount **\$7,031**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,031**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$7,031**

Screening Date 23-Jun-2009

Docket No. 2009-1019-PST-E

PCW

Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart

Policy Revision 2 (September 2002)

Case ID No. 37889

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101783728

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

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)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 23-Jun-2009 **Docket No.** 2009-1019-PST-E **PCW**
Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 37889 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101783728
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

Violation Base Penalty

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart
Case ID No. 37889
Reg. Ent. Reference No. RN101783728
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)	\$100	28-Apr-2009	23-Jul-2009	0.24	\$0	\$2	\$2
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 obtain a current TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is the date the ownership changed 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

\$100

TOTAL

\$2

Screening Date 23-Jun-2009 **Docket No.** 2009-1019-PST-E **PCW**
Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 37889 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101783728
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)
Violation Description Failed to make available to a common carrier a valid, current TCEQ delivery certificate or a TCEQ temporary delivery authorization before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without delivery authorization.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					5%
Potential			x		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 1 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended for accepting one delivery of fuel.

Good Faith Efforts to Comply 10.0% Reduction \$50

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

Notes The Respondent came into compliance on July 23, 2009.

Violation Subtotal \$450

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$472

This violation Final Assessed Penalty (adjusted for limits) \$472

Economic Benefit Worksheet

Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart
Case ID No. 37889
Reg. Ent. Reference No. RN101783728
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Economic benefit included in Violation No. 1.

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 \$0

TOTAL \$0

Screening Date 23-Jun-2009 Docket No. 2009-1019-PST-E PCW

Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart Policy Revision 2 (September 2002)

Case ID No. 37889 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101783728

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code § 115.242(3)(G) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the vapor motors on dispenser nos. 1 and 2 were inoperative.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, 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 \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 3

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), Violation Base Penalty (\$1,000). Includes 'mark only one with an x' instruction.

One quarterly event is recommended based on documentation of the violation during the May 27, 2009 investigation to the May 30, 2009 compliance date.

Good Faith Efforts to Comply 25.0% Reduction \$250

Table with columns: Effort Type (Extraordinary, Ordinary, N/A), Before NOV, NOV to EDPRP/Settlement Offer.

Notes The Respondent came into compliance on May 30, 2009, prior to the NOE dated June 19, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$787

This violation Final Assessed Penalty (adjusted for limits) \$787

Economic Benefit Worksheet

Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart
Case ID No. 37889
Reg. Ent. Reference No. RN101783728
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$700	27-May-2009	30-May-2009	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to replace two vapor motors (\$350 per motor). 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

\$700

TOTAL

\$0

Screening Date 23-Jun-2009 **Docket No.** 2009-1019-PST-E **PCW**
Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 37889 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101783728
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)
Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events: 3 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Three single events are recommended for the three USTs at the Station.

Good Faith Efforts to Comply 10.0% Reduction \$300

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

Notes: The Respondent came into compliance on July 2, 2009.

Violation Subtotal \$2,700

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

Estimated EB Amount \$331 Violation Final Penalty Total \$2,833

This violation Final Assessed Penalty (adjusted for limits) \$2,833

Economic Benefit Worksheet

Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart
Case ID No. 37889
Reg. Ent. Reference No. RN101783728
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]	\$315	4-May-2009	2-Jul-2009	1.00	\$16	\$315	\$331
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum USTs (\$650 per tank per year). The date required is the date the ownership changed and the final date is the date of compliance.

Approx. Cost of Compliance \$315

TOTAL \$331

Screening Date 23-Jun-2009 **Docket No.** 2009-1019-PST-E **PCW**
Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 37889 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101783728
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 334.49(e)
Violation Description Failed to provide documentation that a corrosion protection system was installed and functioning properly for the UST system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 27 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the May 27, 2009 investigation.

Good Faith Efforts to Comply 10.0% Reduction \$100

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

Notes: The Respondent came into compliance on July 9, 2009.

Violation Subtotal \$900

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

Estimated EB Amount \$4 Violation Final Penalty Total \$944

This violation Final Assessed Penalty (adjusted for limits) \$944

Economic Benefit Worksheet

Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart
Case ID No. 37889
Reg. Ent. Reference No. RN101783728
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	27-May-2009	9-Jul-2009	0.12	\$0	\$4	\$4
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 provide documentation that a corrosion protection system was installed and functioning properly for the UST system. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

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

\$4

Screening Date 23-Jun-2009 **Docket No.** 2009-1019-PST-E **PCW**
Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 37889 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101783728
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	Potential	Potential	
				0%

>> Programmatic Matrix

Falsification				Percent
Major	Moderate	Minor		
Actual	Potential	Potential		
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 27 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the May 27, 2009 investigation.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$1,000

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

Estimated EB Amount \$4 Violation Final Penalty Total \$1,049

This violation Final Assessed Penalty (adjusted for limits) \$1,049

Economic Benefit Worksheet

Respondent RIZ INVESTMENT, INC. dba Circle N Food Mart
Case ID No. 37889
Reg. Ent. Reference No. RN101783728
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				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	\$100	27-May-2009	23-Feb-2010	0.75	\$4	n/a	\$4
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 Stage II records. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603489808	RIZ INVESTMENT, INC.	Classification:	Rating:
Regulated Entity:	RN101783728	Circle N Food Mart	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		66760
Location:	530 E MULBERRY ST, ANGLETON, TX, 77515			
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	February 16, 2010			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 23, 2004 to June 23, 2009			

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

Name: Wallace Myers Phone: 512-239-6580

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?

OPR	RIZ INVESTMENT, INC.
OWN	530 Mulberry, LLC
4. If Yes, who was/were the prior owner(s)/operator(s)?

OWNOPR	PATEL, JASHVANT
--------	-----------------
5. When did the change(s) in owner or operator occur?

05/04/2009	OWNOPR	PATEL, JASHVANT
	OWNOPR	PATEL, JASHVANT
6. Rating Date: 9/1/2008 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 06/19/2009 (747252)
 - 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
RIZ INVESTMENT, INC. DBA
CIRCLE N FOOD MART;
RN101783728**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1019-PST-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding RIZ INVESTMENT, INC. dba Circle N Food Mart (“RIZ”) under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and RIZ, represented by Geoff Connor of the law firm of Connor Demond, appear before the Commission and together stipulate that:

1. RIZ operates three underground storage tanks (“USTs”) and a convenience store with retail sales of gasoline located at 530 East Mulberry Street, Angleton, Brazoria County, Texas (the “Station”). RIZ’s USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. RIZ’s USTs contain a regulated petroleum substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The Commission and RIZ agree that the Commission has jurisdiction to enter this Agreed Order, and that RIZ is subject to the Commission’s jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by RIZ of any violation alleged in Section II (“Allegations”), nor of any statute or rule.

5. An administrative penalty in the amount of seven thousand thirty-one dollars (\$7,031.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). RIZ paid two hundred six dollars (\$206.00) of the administrative penalty. The remaining amount of six thousand eight hundred twenty-five dollars (\$6,825.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred ninety-five dollars (\$195.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If RIZ fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, RIZ’s failure to meet the payment schedule of this Agreed Order constitutes the failure by RIZ to timely and satisfactorily comply with all of the terms of this Agreed Order.
6. 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.
7. The Executive Director of the TCEQ and RIZ agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that RIZ implemented the following corrective measures at the Station:
 - a. Submitted an updated UST registration and self-certification form and obtained a valid, current TCEQ delivery certificate on July 23, 2009;
 - b. Replaced the vapor motors on dispenser nos. 1 and 2 and successfully tested the vapor recovery system on May 30, 2009;
 - c. Obtained acceptable financial assurance for the USTs at the Station on July 2, 2009; and
 - d. Recalibrated and repaired the corrosion protection system for all USTs at the Station on July 9, 2009.
9. 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 RIZ has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.

11. 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

1. During an investigation conducted on May 27, 2009, a TCEQ Houston Regional Office investigator documented that RIZ violated:
 - a. TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(D)(i), by failing to obtain temporary delivery authorization prior to returning a temporarily out-of-service UST system to service;
 - b. TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i), by failing to make available to a common carrier a valid, current TCEQ delivery certificate or a TCEQ temporary delivery authorization before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without authorization;
 - c. TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(3)(G), by failing to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the vapor motors on dispenser nos. 1 and 2 were inoperative;
 - d. 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs;
 - e. 30 TEX. ADMIN. CODE § 334.49(e), by failing to provide documentation that a corrosion protection system was installed and functioning properly for the UST system; and
 - f. TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(7)(A), by failing to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel.
2. RIZ received notice of the violations on or about June 24, 2009.

III. DENIALS

RIZ generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that RIZ pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and RIZ’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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: RIZ INVESTMENT, INC. dba Circle N Food Mart, Docket No. 2009-1019-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. RIZ shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, RIZ shall begin maintaining all Stage II records at the Station in accordance with 30 TEX. ADMIN. CODE § 115.246.
 - b. Within 30 days after the effective date of this Agreed Order, RIZ shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision 2.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 fine and imprisonment for knowing violations.”

RIZ shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision 2.a. to:

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

and

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

3. The provisions of this Agreed Order shall apply to and be binding upon RIZ. RIZ 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 RIZ 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, RIZ's failure to comply is not a violation of this Agreed Order. RIZ shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. RIZ shall notify the Executive Director within seven days after RIZ 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 RIZ shall be made in writing to the Executive Director. Extensions are not effective until RIZ 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 RIZ 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of this Agreed Order to RIZ, or three days after the date on which the Commission mails notice of this Agreed Order to RIZ, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

RIZ INVESTMENT, INC. dba Circle N Food Mart
DOCKET NO. 2009-1019-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/25/2010

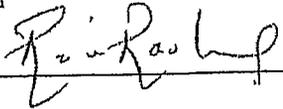
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or RIZ's failure to timely pay the penalty amount, may result in:

- A negative impact on RIZ's compliance history;
- Greater scrutiny of any permit applications submitted by RIZ;
- 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 against RIZ;
- Automatic referral to the Attorney General's Office of any future enforcement actions against RIZ; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution


Signature

6/11/10
Date

Rizwan Baddi
Name (Printed or typed)
Authorized representative of
RIZ INVESTMENT, INC. dba Circle N Food Mart

President
Title