

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2009-1694-MLM-E RN104105218 CASE NO. 38552**  
**RESPONDENT NAME: RAMESH PILLAI**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 checked="" 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 checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** Highway 75 and Interstate Highway 45, Madisonville, Madison County

**TYPE OF OPERATION:** former gas station with an inactive underground storage tank system

**SMALL BUSINESS:** N/A

**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 July 26, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Steven M. Fishburn, Litigation Division, MC 175, (512) 239-3400  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789

**TCEQ Regional Contact:** Mr. Frank Bursleson, Waco Regional Office, MC R-9, (254) 761-3001

**Respondent:** Mr. Ramesh Pillai, 10100 East Freeway, Suite 203, Houston, Texas 77029

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 19, 2009</p> <p><b>Date of NOE Relating to this Case:</b> August 10, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed on January 22, 2010. According to the return receipt "green card," Respondent received notice of the EDPRP on January 28, 2010. The EDFARP was filed on February 22, 2010. According to the return receipt "green card," Respondent received notice of the EDFARP on February 24, 2010. The EDSARP was filed on April 27, 2010. According to the return receipt "green card," Respondent received notice of the EDSARP on April 30, 2010. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference</p> <p><b>Current Compliance Status:</b> Respondent has not yet submitted documentation to certify compliance with the technical requirements. Respondent does not have a delivery certificate.</p> <p><b>MLM:</b></p> <ol style="list-style-type: none"> <li>Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</li> <li>Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)(2)].</li> <li>Failed to provide corrosion protection for the UST system [30 TEX. ADMIN. CODE §§ 334.54(c)(1) and 334.49(a)].</li> <li>Failed to prevent the unauthorized disposal of municipal solid waste [30 TEX. ADMIN. CODE § 330.15(c)].</li> </ol>	<p><b>Total Assessed:</b> \$4,725</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$4,725</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, cease disposing of any additional MSW at the Facility.</li> <li>Within 30 days: <ol style="list-style-type: none"> <li>Remove all MSW and dispose of the waste at an authorized facility.</li> <li>Maintain all piping, pumps, manways, tanks access points, and ancillary equipment in a capped, plugged, locked and/or otherwise secured manner; and</li> <li>Permanently remove the UST system from service; or,</li> <li>In lieu of Ordering Provision No. 2.c., install and implement a corrosion protection system for the UST system.</li> </ol> </li> <li>Within 45 days, submit an amended registration to reflect the current ownership information and the current operational status of the UST system.</li> <li>Within 60 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	17-Aug-2009			
	<b>PCW</b>	7-Jan-2010	<b>Screening</b>	14-Oct-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Ramesh Pillai
<b>Reg. Ent. Ref. No.</b>	RN104105218
<b>Facility/Site Region</b>	9-Waco
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	38552	<b>No. of Violations</b>	3	
<b>Docket No.</b>	2009-1694-MLM-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No	
<b>Multi-Media</b>	Municipal Solid Waste	<b>Enf. Coordinator</b>	Elvia Maske	
		<b>EC's Team</b>	Enforcement Team 7	
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$225
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<b>Notes</b>	Enhancement for one NOV with same or similar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$121	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,100	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,725
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$4,725
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,725
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$4,725
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**Screening Date** 14-Oct-2009

**Docket No.** 2009-1694-MLM-E

**PCW**

**Respondent** Ramesh Pillai

*Policy Revision 2 (September 2002)*

**Case ID No.** 38552

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN104105218

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Elvia Maske

### 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 ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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 violations.

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

**Screening Date** 14-Oct-2009 **Docket No.** 2009-1694-MLM-E **PCW**  
**Respondent** Ramesh Pillai *Policy Revision 2 (September 2002)*  
**Case ID No.** 38552 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN104105218  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Elvia Maske

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR

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

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	<input type="text" value="100% of the rule requirement was not met."/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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	<input type="text" value="x"/>

*mark only one with an 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"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(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** Ramesh Pillai  
**Case ID No.** 38552  
**Reg. Ent. Reference No.** RN104105218  
**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)	\$100	19-Jul-2009	1-May-2010	0.78	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The date required is the record review 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

**Screening Date** 14-Oct-2009 **Docket No.** 2009-1694-MLM-E **PCW**  
**Respondent** Ramesh Pillai *Policy Revision 2 (September 2002)*  
**Case ID No.** 38552 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN104105218  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Elvia Maske

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

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

**Matrix Notes**   
**Adjustment**

**Violation Subtotal**

**Violation Events**

Number of Violation Events   Number of violation days  
*mark only one with an x*  
 daily   
 weekly   
 monthly   
 quarterly   
 semiannual   
 annual   
 single event   
**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	

**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** Ramesh Pillai  
**Case ID No.** 38552  
**Reg. Ent. Reference No.** RN104105218  
**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)	\$2,000	19-Jul-2009	1-May-2010	0.78	\$78	n/a	\$78

Notes for DELAYED costs

Estimated cost to properly secure the fill port on the UST system and to provide proper corrosion protection for the UST system. The date required is the record review 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

\$2,000

TOTAL

\$78

**Screening Date** 14-Oct-2009 **Docket No.** 2009-1694-MLM-E **PCW**  
**Respondent** Ramesh Pillai *Policy Revision 2 (September 2002)*  
**Case ID No.** 38552 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN104105218  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Elvia Maske

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<input type="text" value="10%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
<input type="text" value="Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>					

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(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** Ramesh Pillai  
**Case ID No.** 38552  
**Reg. Ent. Reference No.** RN104105218  
**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	\$1,000	19-Jul-2009	1-May-2010	0.78	\$39	n/a	\$39
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to properly remove and dispose of approximately 250 scrap tires and one cubic yard of waste at an authorized facility. The date required is the record review 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

\$1,000

**TOTAL**

\$39

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603419102 Pillai, Ramesh Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN104105218 Gas Station Classification: AVERAGE Site Rating: .75  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 76245  
REGISTRATION

Location: HWY 75 & IH 45  
TCEQ Region: REGION 09 - WACO  
Date Compliance History Prepared: September 04, 2009

Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 04, 2004 to September 04, 2009

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

Name: Elvia Maske Phone: (512) 239 - 0789

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
    - 1 03/05/2009 (721976)
    - 2 05/06/2009 (744356)
    - 3 08/09/2009 (759255)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/19/2008 (706617)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 330, SubChapter A 330.15(c)

Description: Failure to obtain authorization from the TCEQ prior to the dumping or disposal of municipal solid waste.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(e)(2)  
30 TAC Chapter 334, SubChapter C 334.7(d)(3)

Description: Failure to amend, update, or change registration as required by the Commission.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)(2)

Description: Failure to properly secure all underground storage tanks (USTs) 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  
RAMESH PILLAI;  
RN104105218**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2009-1694-MLM-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Second Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Ramesh Pillai (“Mr. Pillai”).

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Mr. Pillai owns a former gas station with an underground storage tank (“UST”) system located at Highway 75 and Interstate Highway 45, Madisonville, Madison County, Texas (the “Facility”).
2. Mr. Pillai’s UST system is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Pillai’s UST system contains a regulated substance as defined in the rules of the Commission. The Facility involves the management and/or disposal of municipal solid waste (“MSW”) as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During a record review conducted on July 19, 2009, a TCEQ Waco Regional Office investigator documented that Mr. Pillai:
  - a. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current owner’s contact information and status of the UST system;

- b. Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the UST system fill port was not locked or secured;
  - c. Failed to provide corrosion protection for the UST system.
  - d. Failed to prevent the unauthorized disposal of MSW. Specifically, approximately 26 cubic yards of MSW and scrap tires were disposed of at the Facility.
4. Mr. Pillai received notice of the violations on or about August 15, 2009.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ramesh Pillai" (the "EDPRP") in the TCEQ Chief Clerk's office on January 22, 2010.
6. By letter dated January 22, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Pillai with notice of the EDPRP. According to the return receipt "green card," Mr. Pillai received notice of the EDPRP on January 28, 2010, as evidenced by the signature on the card.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ramesh Pillai" (the "EDFARP") in the TCEQ Chief Clerk's office on February 22, 2010.
8. By letter dated February 22, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Pillai with notice of the EDFARP. According to the return receipt "green card," Mr. Pillai received notice of the EDFARP on February 24, 2010, as evidenced by the signature on the card.
9. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ramesh Pillai" (the "EDSARP") in the TCEQ Chief Clerk's office on April 27, 2010.
10. By letter dated April 27, 2010 sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Pillai with notice of the EDSARP. According to the return receipt "green card," Mr. Pillai received notice of the EDSARP on April 30, 2010, as evidenced by the signature on the card.

11. More than 20 days have elapsed since Mr. Pillai received notice of the EDPRP, the EDFARP, and the EDSARP provided by the Executive Director. Mr. Pillai failed to file an answer to either the EDPRP, the EDFARP, or the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Mr. Pillai is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Pillai failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
3. As evidenced by Finding of Fact No. 3.b., Mr. Pillai failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2);
4. As evidenced by Finding of Fact No. 3.c., Mr. Pillai failed to provide corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE §§ 334.49(a) and 334.54(c)(1).
5. As evidenced by Finding of Fact No. 3.d., Mr. Pillai failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c).
6. As evidenced by Findings of Fact Nos. 5 through 10, the Executive Director timely served Mr. Pillai with proper notice of the EDPRP, the EDFARP, and the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 11, Mr. Pillai failed to file a timely answer to either the EDPRP, the EDFARP, or the EDSARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Pillai and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Pillai for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

9. An administrative penalty in the amount of four thousand seven hundred twenty-five dollars (\$4,725.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Pillai is assessed an administrative penalty in the amount of four thousand seven hundred twenty-five dollars (\$4,725.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Mr. Pillai's compliance with all the terms and conditions set forth in this Order resolve the Allegations which occurred only on the dates set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Ramesh Pillai; Docket No. 2009-1694-MLM-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. Mr. Pillai shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Mr. Pillai shall cease disposing of any additional MSW at the Facility.
  - b. Within 30 days after the effective date of this Order, Mr. Pillai shall:
    - i. Remove all MSW from the Facility and dispose of it at an authorized facility;
    - ii. Maintain all piping, pumps, manways, tank access points, and ancillary equipment in a capped, plugged, locked and/or otherwise secured manner, in accordance with 30 TEX. ADMIN. CODE § 334.54; and
    - iii. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; or,

- iv. In lieu of Ordering Provision No. 2.b.iii., install and implement a corrosion protection system for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.49.
- c. Within 45 days after the effective date of this Order, Mr. Pillai shall submit an amended registration to reflect the current ownership information and the current operational status of the UST system to:

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

- d. Within 60 days after the effective date of this Order, Mr. Pillai shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. 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.”

Mr. Pillai shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c. 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:

Mr. Frank Burlison, Waste Section Manager  
Texas Commission on Environmental Quality  
Waco Regional Office  
6801 Sanger Ave., Ste. 2500  
Waco, Texas 76710-7826

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Pillai. Mr. Pillai is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Mr. Pillai fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Pillai's failure to comply is not a violation of this Order. Mr. Pillai shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Pillai shall notify the Executive Director within seven days after Mr. Pillai becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Pillai shall be made in writing to the Executive Director. Extensions are not effective until Mr. Pillai receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Pillai if the Executive Director determines that Mr. Pillai has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**Ramesh Pillai**  
**Docket No. 2009-1694-MLM-E**  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF STEVEN M. FISHBURN**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Steven M. Fishburn. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Ramesh Pillai” (the “EDPRP”) was filed with the Office of the Chief Clerk on January 22, 2010.

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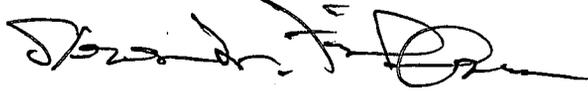
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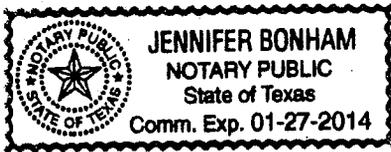
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Steven M. Fishburn, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Steven M. Fishburn, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 1 day of June, A.D., 2010.



Notary Without Bond

  
Notary Signature