

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2008-1502-PST-E TCEQ ID RN101774958 CASE NO. 36574
RESPONDENT NAME: NEELAM MARKETS, INC. DBA FUEL EXPRESS

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: 5010 Red Bluff Road, Pasadena, Harris 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 March 15, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577
TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623
Respondent: Mr. Zulfiqar A. Ali, President, Neelam Markets, Inc., 5615 Richmond Ave. Ste. 230, Houston, Texas 77057
Respondent's Attorney: Ms. Philoan M. Tran, Attorney at Law, 10500 Richmond Avenue, Suite 138, Houston, Texas 77042

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: July 11, 2008</p> <p>Date of NOE Relating to this Case: October 27, 2008</p> <p>Background Facts: The EDPRP was filed on May 4, 2009. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on January 11, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation to certify compliance with the technical requirements. Respondent's delivery certificate expires on September 30, 2010.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)]. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)]. Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii)]. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)]. Failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(1), (4) and (5) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 	<p>Total Assessed: \$121,750</p> <p>Total Deferred: \$60,875 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input checked="" type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$15,000/\$45,875</p> <p>Respondent paid \$15,000 of the administrative penalty. The remaining amount of \$46,875 shall be payable in 19 payments of \$2,325 each and one payment of \$1,600.</p> <p>The remaining amount of \$60,875 shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</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: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input 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"> Began maintaining all UST records on July 28, 2008; Began maintaining all Stage II records at the Station, including a copy of the California Air Resources Board ("CARB") Executive Order, employee training records and Stage II test results on July 28, 2008; and Properly completed a UST registration and self-certification form on September 14, 2009. <p>Ordering Provisions: Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A). Within 30 days: <ol style="list-style-type: none"> Install and implement a release detection method for all UST's at the Station; and Post Stage II operating instructions on the front of each gasoline dispensing pump. Within 45 days, submit written certification demonstrating compliance.

Attachment A
Docket Number: 2008-1502-PST-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: NEELAM MARKETS, INC. dba Fuel Express

Penalty Amount: One hundred twenty-one thousand seven hundred fifty dollars (\$121,750)

SEP Offset Amount: Sixty thousand eight hundred seventy-five dollars (\$60,875)

Type of SEP: Pre-approved SEP

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. (“RC&D”) *Abandoned Tire Clean Up*

Location of SEP: Harris County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)* for the *Abandoned Tire Clean Up* program. Specifically, the contribution will be used to clean up sites where tires have been disposed of illegally. SEP Funds will be used to pay for the labor and disposal costs associated with proper clean up and disposal of abandoned tires. Eligible clean up sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. Any SEP Funds remaining after completion of this project may, upon approval of the Executive Director, be applied to another approved RC&D project. The project will be administered in accordance with federal, state, and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin making monthly contributions to the Third Party Recipient on the following payment schedule: nineteen monthly payments of \$3,050.00 each, and one final payment of \$2,925.00, for a total of \$60,875.00 to the Third Party Recipient. 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. SEP monthly contributions shall be made payable to "Texas Association of Resource Conservation and Development Areas, Inc.". The Respondent shall mail a copy of this Agreed Order to the Third Party Recipient within 30 days of the effective date of this Agreed Order, to the address listed below.

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

3. Records and Reporting

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

NEELAN MARKETS, INC. dba Fuel Express
2008-1502-PST-E
Agreed Order-Attachment A

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	16-Sep-2008			
	PCW	31-Mar-2009	Screening	17-Sep-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	NEELAM MARKETS, INC. dba Fuel Express				
Reg. Ent. Ref. No.	RN101774958				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION					
Enf./Case ID No.	36574	No. of Violations	6		
Docket No.	2008-1502-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Rajesh Acharya		
		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	\$123,000
---	-------------------	-----------

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 due to 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	\$1,250
--	-------------------	---------

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

Total EB Amounts: \$81
 Approx. Cost of Compliance: \$2,700
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$121,750
-----------------------------	-----------------------	-----------

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$121,750

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$121,750
-----------------------------------	-------------------------------	-----------

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	\$121,750
------------------------	-----------

Screening Date 17-Sep-2008

Docket No. 2008-1502-PST-E

PCW

Respondent NEELAM MARKETS, INC. dba Fuel Express

Policy Revision 2 (September 2002)

Case ID No. 36574

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101774958

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (<i>number of NOV's meeting criteria</i>)	0	0%
	Other written NOV's	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) 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 17-Sep-2008 **Docket No.** 2008-1502-PST-E **PCW**
Respondent NEELAM MARKETS, INC. dba Fuel Express *Policy Revision 2 (September 2002)*
Case ID No. 36574 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101774958
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)
Violation Description Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 68 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

One quarterly event is recommended based on documentation of the violation during the July 11, 2008 investigation to the September 17, 2008 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/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 \$5,000

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

Estimated EB Amount \$66 Violation Final Penalty Total \$5,000

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent NEELAM MARKETS, INC. dba Fuel Express
Case ID No. 36574
Reg. Ent. Reference No. RN101774958
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)	\$1,500	11-Jul-2008	30-May-2009	0.88	\$66	n/a	\$66

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs. Date Required is the date of the investigation. 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

\$1,500

TOTAL

\$66

Screening Date 17-Sep-2008 **Docket No.** 2008-1502-PST-E **PCW**
Respondent NEELAM MARKETS, INC. dba Fuel Express *Policy Revision 2 (September 2002)*
Case ID No. 36574 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101774958
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

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

Number of Violation Events Number of violation days
 mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" 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 checked="" 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 NEELAM MARKETS, INC. dba Fuel Express
Case ID No. 36574
Reg. Ent. Reference No. RN101774958
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	11-Jul-2008	30-May-2009	0.88	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to post operating instructions. Date Required is the investigation date. 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 17-Sep-2008 **Docket No.** 2008-1502-PST-E **PCW**
Respondent NEELAM MARKETS, INC. dba Fuel Express *Policy Revision 2 (September 2002)*
Case ID No. 36574 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101774958
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="25%"/>
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

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 checked="" type="text" value="x"/>	<input type="text"/>
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 NEELAM MARKETS, INC. dba Fuel Express
Case ID No. 36574
Reg. Ent. Reference No. RN101774958
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	\$500	11-Jul-2008	28-Jul-2008	0.05	\$1	n/a	\$1
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 UST records. Date Required is the date of investigation. 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

\$1

Screening Date 17-Sep-2008 **Docket No.** 2008-1502-PST-E **PCW**
Respondent NEELAM MARKETS, INC. dba Fuel Express *Policy Revision 2 (September 2002)*
Case ID No. 36574 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101774958
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)
Violation Description Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent 0%	
	Release	Major	Moderate		Minor
	Actual				
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 25%
		x			

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 353 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the July 11, 2008 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 \$2,500

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

Estimated EB Amount \$8 **Violation Final Penalty Total** \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent NEELAM MARKETS, INC. dba Fuel Express
Case ID No. 36574
Reg. Ent. Reference No. RN101774958
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)	\$100	31-Aug-2007	30-Apr-2009	1.67	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form. Date Required is 30 days before the expiration date of the delivery certificate. 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

	\$8
--	-----

Screening Date 17-Sep-2008 **Docket No.** 2008-1502-PST-E **PCW**
Respondent NEELAM MARKETS, INC. dba Fuel Express *Policy Revision 2 (September 2002)*
Case ID No. 36574 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101774958
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<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 EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	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 NEELAM MARKETS, INC. dba Fuel Express
Case ID No. 36574
Reg. Ent. Reference No. RN101774958
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				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. 4.

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 17-Sep-2008 **Docket No.** 2008-1502-PST-E **PCW**
Respondent NEELAM MARKETS, INC. dba Fuel Express *Policy Revision 2 (September 2002)*
Case ID No. 36574 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101774958
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 115.246(1), (4), (5) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel. Specifically, a copy of the California Air Resources Board ("CARB") Executive Order, employee training records and Stage II test results were not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 17 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the July 11, 2008 investigation.

Good Faith Efforts to Comply 25.0% Reduction \$625

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

Notes The Respondent came into compliance on July 28, 2008.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$1 **Violation Final Penalty Total** \$1,875

This violation Final Assessed Penalty (adjusted for limits) \$1,875

Economic Benefit Worksheet

Respondent NEELAM MARKETS, INC. dba Fuel Express
Case ID No. 36574
Reg. Ent. Reference No. RN101774958
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	\$500	11-Jul-2008	28-Jul-2008	0.05	\$1	n/a	\$1
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 at the Station. Date Required is the investigation date. Final date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Compliance History

Customer/Respondent/Owner-Operator:	CN600959381 NEELAM MARKETS, INC.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101774958 Fuel Express	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	35144
Location:	5010 RED BLUFF RD, PASADENA, TX, 77503		Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	September 17, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 17, 2003 to September 17, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Rajesh Acharya	Phone:	(512) 239-0577

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

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 09/09/2008 (686241)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
NEELAM MARKETS, INC. DBA
FUEL EXPRESS;
RN101774958**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2008-1502-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 NEELAM MARKETS, INC. dba Fuel Express ("NEELAM") 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 NEELAM, represented by Ms. Philoan Tran of the law firm of Philoan M. Tran, P.C. Attorneys at Law, appear before the Commission and together stipulate that:

1. NEELAM owns and operates a convenience store with retail sales of gasoline located at 5010 Red Bluff Road, in Pasadena, Harris County, Texas (the "Station").
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. HEALTH & SAFETY CODE ch. 382, TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and NEELAM agree that the Commission has jurisdiction to enter this Agreed Order, and that NEELAM is subject to the Commission's jurisdiction.
4. NEELAM received notice of the violations alleged in Section II ("Allegations") on or about November 1, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by NEELAM of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of one hundred twenty-one thousand seven hundred fifty dollars (\$121,750.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Pursuant to TEX. WATER CODE § 7.067, sixty thousand eight hundred seventy-five dollars (\$60,875.00) of the administrative penalty shall be conditionally offset by NEELAM's completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A, incorporated herein by reference. The amount of sixty thousand eight hundred seventy-five dollars (\$60,875.00) to the SEP shall be payable in 20 monthly payments as follows: 19 payments of three thousand fifty dollars (\$3,050.00) each and one final payment of two thousand nine hundred twenty-five dollars (\$2,925.00). 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. NEELAM's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

NEELAM paid fifteen thousand dollars (\$15,000.00) of the undeferred administrative penalty. The remaining amount of forty-five thousand eight hundred seventy-five dollars (\$45,875.00) of the administrative penalty shall be payable in 20 monthly payments as follows: 19 payments of two thousand three hundred twenty-five dollars (\$2,325.00) each and one final payment of one thousand seven hundred dollars (\$1,700.00). The first monthly payment shall be paid within twenty-one months 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 NEELAM 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, NEELAM's failure to meet the payment schedule of this Agreed Order constitutes the failure by NEELAM to timely and satisfactorily comply with all of the terms of this Agreed Order.

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 NEELAM 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 NEELAM implemented the following corrective measures at the Station in response to this enforcement action:
 - a. Began maintaining all UST records on July 28, 2008;

- b. Began maintaining all Stage II records at the Station, including a copy of California Air Resources Board (“CARB”) Executive Order, employee training records and Stage II test results on July 28, 2008; and
 - c. Properly submitted a UST registration and self-certification form on September 14, 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 NEELAM 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

1. During an investigation conducted on July 11, 2008, a TCEQ Houston Regional Office investigator documented that NEELAM violated:
 - a. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring);
 - b. 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to post operating instructions conspicuously on the front of each gasoline dispensing pump;
 - c. 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, documentation of overfill protection equipment installed, financial assurance, line and leak detector test results, and inventory control records were not available;
 - d. 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii) by failing to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2007;

- e. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, 108 fuel deliveries were accepted without a delivery certificate; and
- f. 30 TEX. ADMIN. CODE § 115.246(1), (4) and (5) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel. Specifically, a copy of the CARB Executive Order, employee training records, and Stage II test results were not available for review.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that NEELAM pay an administrative penalty as set forth in Section I, Paragraph Six above. The payment of this administrative penalty and NEELAM’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: NEELAM MARKETS, INC. dba Fuel Express, Docket No. 2008-1502-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. NEELAM shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph Six above, sixty thousand eight hundred seventy-five dollars (\$60,875.00) of the assessed administrative penalty shall be offset with the condition that NEELAM implement the SEP defined in Attachment A, incorporated herein by reference. NEELAM’s obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. NEELAM shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, NEELAM shall install and implement a release detection method for all UST’s at the Station in accordance with 30 TEX. ADMIN. CODE § 334.50;

- b. Within 30 days after the effective date of this Agreed Order, NEELAM shall post Stage II operating instructions on the front of each gasoline dispensing pump in accordance with 30 TEX. ADMIN. CODE § 115.242;
- c. Within 45 days after the effective date of this Agreed Order, NEELAM shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. 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.”

NEELAM shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. to:

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

and

Nicole Bealle, Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk St., Ste. H
Houston, Texas 77023-1452

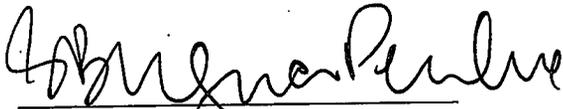
- 4. The provisions of this Agreed Order shall apply to and be binding upon NEELAM. NEELAM is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
- 5. If NEELAM fails to comply with any of the Ordering Provisions 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, NEELAM's failure to comply is not a violation of this Agreed Order. NEELAM shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. NEELAM shall notify the Executive Director within seven days after NEELAM becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by NEELAM shall be made in writing to the Executive Director. Extensions are not effective until NEELAM receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against NEELAM in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. 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 the Order to NEELAM, or three days after the date on which the Commission mails notice of the Order to NEELAM, 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

7/21/2010

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 my failure to timely pay the penalty amount, may result in:

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

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


Signature

1-11-2010
Date

Zulfikar Ali
Name (Printed or typed)
Authorized representative of
NEELAM MARKETS, INC. dba Fuel Express

PRISULL
Title



Attachment A
Docket Number: 2008-1502-PST-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: NEELAM MARKETS, INC. dba Fuel Express

Penalty Amount: One hundred twenty-one thousand seven hundred fifty dollars (\$121,750)

SEP Offset Amount: Sixty thousand eight hundred seventy-five dollars (\$60,875)

Type of SEP: Pre-approved SEP

Third-Party Recipient: Texas Association of Resource Conservation & Development Areas, Inc. (“RC&D”) *Abandoned Tire Clean Up*

Location of SEP: Harris County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”)* for the *Abandoned Tire Clean Up* program. Specifically, the contribution will be used to clean up sites where tires have been disposed of illegally. SEP Funds will be used to pay for the labor and disposal costs associated with proper clean up and disposal of abandoned tires. Eligible clean up sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. Any SEP Funds remaining after completion of this project may, upon approval of the Executive Director, be applied to another approved RC&D project. The project will be administered in accordance with federal, state, and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin making monthly contributions to the Third Party Recipient on the following payment schedule: nineteen monthly payments of \$3,050.00 each, and one final payment of \$2,925.00, for a total of \$60,875.00 to the Third Party Recipient. 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. SEP monthly contributions shall be made payable to "Texas Association of Resource Conservation and Development Areas, Inc.". The Respondent shall mail a copy of this Agreed Order to the Third Party Recipient within 30 days of the effective date of this Agreed Order, to the address listed below.

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

3. Records and Reporting

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

NEELAN MARKETS, INC. dba Fuel Express
2008-1502-PST-E
Agreed Order-Attachment A

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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