

**Executive Summary – Enforcement Matter – Case No. 39658**  
**THOMAS PETROLEUM, LLC**  
**RN101617165 AND RN104005186**  
**Docket No. 2010-0751-PST-E**

**Order Type:**

Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

107 North Twin City Highway, Nederland, Jefferson County, Texas (the "Nederland Station");  
13701 Interstate 35, Pflugerville, Travis County, Texas (the "Pflugerville Station")

**Type of Operation:**

convenience stores with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** August 19, 2011

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$84,004

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$1,402

**Total Due to General Revenue:** \$40,600

Payment Plan: 35 payments of \$1,160 each

**SEP Conditional Offset:** \$42,002

Name of SEP: Cheek Community First Time Sewer Service for Low-Income Home Owners

**Compliance History Classifications:**

Person/CN – Average

Site/RN – High (Nederland Station); Average (Pflugerville Station)

**Major Source:** No (Nederland Station); Yes (Pflugerville Station)

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

THOMAS PETROLEUM, LLC  
RN101617165 AND RN104005186  
Docket No. 2010-0751-PST-E

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** March 25, 2010, and May 24, 2010  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** April 29, 2010, and July 16, 2010

***Violation Information***

Nederland Station:

1. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)];
2. Failed to report a suspected release to the TCEQ within 24 hours after an inconclusive statistical inventory reconciliation (“SIR”) analysis report [30 TEX. ADMIN. CODE § 334.72];
3. Failed to immediately investigate a suspected release of regulated substances within 30 days after the receipt of an inconclusive SIR analysis report [30 TEX. ADMIN. CODE § 334.74];
4. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure their sides, bottoms, and any penetration points are maintained liquid-tight and free of debris and liquid [30 TEX. ADMIN. CODE § 334.42(i)];
5. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board (“CARB”) Executive Order, and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)];
6. Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]; and
7. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Pflugerville Station:

8. Failed to report a suspected release to the TCEQ within 24 hours after an inconclusive SIR analysis report [30 TEX. ADMIN. CODE § 334.72];
9. Failed to immediately investigate a suspected release of regulated substances within 30 days after the receipt of an inconclusive SIR analysis report [30 TEX. ADMIN. CODE § 334.74]; and
10. Failed to ensure that no gasoline leaks exist anywhere in the liquid transfer or vapor balance system, and failed to ensure that each vapor balance system vent line is equipped with a pressure-vacuum relief valve set to open at a pressure of no more than eight ounces per square inch [30 TEX. ADMIN. CODE § 115.222(3) and (6) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

1. Nederland Station:
  - a. Submitted a properly completed UST registration and self-certification form (Violation No. 1);

**Executive Summary – Enforcement Matter – Case No. 39658**  
**THOMAS PETROLEUM, LLC**  
**RN101617165 AND RN104005186**  
**Docket No. 2010-0751-PST-E**

- b. Submitted a Release Determination Report (“RDR”) and tank tightness test with passing results, which indicated that there was no release of petroleum product (Violation Nos. 2 and 3);
  - c. Submitted documentation reflecting that bimonthly inspections of the spill and overspill containers are being conducted (Violation No. 4);
  - d. Installed swivel adapters on the fill ports and dry breaks (Violation No. 5); and
  - e. Completed testing of the Stage II vapor recovery system, with passing results (Violation No. 6).
2. Pflugerville Station:
- a. Submitted a Release Determination Report (“RDR”) and tank tightness test with passing results, which indicated that there was no release of petroleum product (Violation Nos. 8 and 9); and
  - b. Replaced the seal on the vapor adaptor of tank no. 2 and installed pressure-vacuum relief valves on the vapor balance system vent lines (Violation No. 10).

**Technical Requirements:**

Nederland Station:

- 1. Within 30 days:
  - a. Establish and implement a process for reporting and investigating suspected releases, including appropriate corrective measures for determining suspected releases; and
  - b. Complete the required Stage II Station representative training and ensure each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system (Violation 7).
- 2. Within 45 days submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance.

Pflugerville Station:

- 1. Within 30 days establish and implement a process for reporting and investigating suspected releases, including appropriate corrective measures for determining suspected releases.
- 2. Within 45 days submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance.

***Litigation Information***

<b>Date Petition(s) Filed:</b>	November 19, 2010; May 3, 2011
<b>Date Answer(s) Filed:</b>	November 22, 2010
<b>SOAH Referral Date:</b>	December 29, 2010
<b>Hearing Date(s):</b>	
Preliminary hearing:	February 17, 2011 (waived)
Evidentiary hearing:	June 7, 2011
<b>Settlement Date:</b>	June 6, 2011

***Contact Information***

**TCEQ Attorneys:** Kari L. Gilbreth, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ SEP Coordinator:** Sharon Blue, Litigation Division, (512) 239-2223

**TCEQ Enforcement Coordinator:** Keith Frank, Waste Enforcement Section, (512) 239-1203

**TCEQ Regional Contact:** Derek Eades, Beaumont Regional Office, (409) 898-3838;  
Barry Kalda, Austin Regional Office; (512) 339-2929

**Respondent:** Carlton LaBeff, Vice-President, C L Thomas, Inc., Manager of Thomas Petroleum, LLC,  
P.O. Box 1876, Victoria, Texas 77902-1876

**Respondent's Attorney:** William Thompson, Attorney at Law, Grissom and Thompson, L.L.P.,  
509 West 12<sup>th</sup> Street, Austin, Texas 78701

**Attachment A**  
**Docket Number: 2010-0751-PST-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Thomas Petroleum, LLC
<b>Penalty Amount:</b>	Eighty-Four Thousand Four Dollars (\$84,004)
<b>SEP Offset Amount:</b>	Forty-Two Thousand Two Dollars (\$42,002)
<b>Type of SEP:</b>	Pre-approved
<b>Third-Party Recipient:</b>	Jefferson County
<b>Project Name:</b>	<i>Cheek Community First Time Sewer Service for Low-Income Home Owners</i>
<b>Location of SEP:</b>	Jefferson County

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to Jefferson County for the *Cheek Community First Time Sewer Service for Low-Income Home Owners*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to provide first time sewer service for approximately 81 Low-Income residential customers in the Candlelight and Martel Subdivisions (Cheek Community) located in the western area of Jefferson County. This area has open sewage pits or poorly maintained septic systems which are a hazard to human health and the environment.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

The SEP will provide a discernible environmental benefit by preventing the continued release of raw sewage into the environment, and protect ground, surface and drinking water sources from contamination by open wells. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources
- Direct contact in areas of public access such as basements, lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

**C. Minimum Expenditure**

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, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Mario C. Watkins, Executive Assistant  
Jefferson County Courthouse  
1149 Pearl Street 4<sup>th</sup> Floor  
Beaumont, Texas 77701

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Litigation Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

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

#### **4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

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

#### **5. Publicity**

Any public statements concerning this SEP made by or on behalf of 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

**THIS PAGE INTENTIONALLY LEFT BLANK**



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	3-May-2010	<b>Screening</b>	10-May-2010	<b>EPA Due</b>	
	<b>PCW</b>	3-Jun-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	THOMAS PETROLEUM, LLC (Station 1)		
<b>Reg. Ent. Ref. No.</b>	RN101617165		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	39658	<b>No. of Violations</b>	7
<b>Docket No.</b>	2010-0751-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit 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>	\$40,000
---	-------------------	----------

### 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>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
---------------------------	------------------	--------------------------------	-----

Notes: No adjustment due to compliance history.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,225
--	-------------------	---------

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$1,204
Approx. Cost of Compliance	\$6,624

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$38,775
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	1.9%	<b>Adjustment</b>	\$754
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2, 4 and 6.

**Final Penalty Amount** \$39,529

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$39,529
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$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.

<b>PAYABLE PENALTY</b>	\$39,529
------------------------	----------

Screening Date 10-May-2010

Docket No. 2010-0751-PST-E

PCW

Respondent THOMAS PETROLEUM, LLC (Station 1)

Policy Revision 2 (September 2002)

Case ID No. 39658

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101617165

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

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

Adjustment Percentage (Subtotal 2) 0%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

<b>Screening Date</b>	10-May-2010	<b>Docket No.</b>	2010-0751-PST-E	<b>PCW</b>
<b>Respondent</b>	THOMAS PETROLEUM, LLC (Station 1)			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	39658			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101617165			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Keith Frank			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.7(d)(3)			
<b>Violation Description</b>	Failed to notify the agency of any change or additional information regarding the underground storage tank ("UST") within 30 days of the change or addition. Specifically, the registration was not updated to reflect the current release detection information for the Station.			
		<b>Base Penalty</b>	\$10,000	

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 0%
Potential					

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> 10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
					<b>Adjustment</b> \$9,000

\$1,000

**Violation Events**

Number of Violation Events	1	32	Number of violation days	
<i>mark only one with an x</i>	daily			<b>Violation Base Penalty</b> \$1,000
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
	One single event is recommended.			

**Good Faith Efforts to Comply** 25.0% Reduction \$250

	Before NOV	NOV to EDPRP/Settlement	
Extraordinary			
Ordinary	x		
N/A		(mark with x)	
<b>Notes</b>	The Respondent came into compliance on April 26, 2010 prior to the Notice of Enforcement ("NOE") dated April 29, 2010.		
			<b>Violation Subtotal</b> \$750

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

<b>Estimated EB Amount</b>	\$0	<b>Violation Final Penalty Total</b>	\$765
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$765

## Economic Benefit Worksheet

**Respondent** THOMAS PETROLEUM, LLC (Station 1)  
**Case ID No.** 39658  
**Reg. Ent. Reference No.** RN101617165  
**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	25-Mar-2010	26-Apr-2010	0.09	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a properly completed UST registration and self-certification form. Date Required is the investigation date. Final date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$0

**Screening Date** 10-May-2010 **Docket No.** 2010-0751-PST-E **PCW**  
**Respondent** THOMAS PETROLEUM, LLC (Station 1) *Policy Revision 2 (September 2002)*  
**Case ID No.** 39658 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101617165  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Keith Frank

**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"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

**>> Programmatic Matrix**

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

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<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 type="text"/>	<input type="text"/>
N/A	<input checked="" 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** THOMAS PETROLEUM, LLC (Station 1)  
**Case ID No.** 39658  
**Reg. Ent. Reference No.** RN101617165  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### 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]	\$100	31-Mar-2009	1-Apr-2009	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to not report a suspected release. Date Required is the date of the suspected release.  
Final Date is the date the report was due.

Approx. Cost of Compliance

\$100

**TOTAL**

\$100

<b>Screening Date</b>	10-May-2010	<b>Docket No.</b>	2010-0751-PST-E	<b>PCW</b>
<b>Respondent</b>	THOMAS PETROLEUM, LLC (Station 1)			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	39658			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101617165			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Keith Frank			
<b>Violation Number</b>	3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.74			
<b>Violation Description</b>	Failed to immediately investigate a suspected release of a regulated substance after the receipt of an inconclusive SIR analysis report. Specifically, the Respondent did not investigate a suspected release after receiving an inconclusive evaluation from the SIR vendor for the month of March 2009.			
<b>Base Penalty</b>	\$10,000			

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
Potential	x			<b>Percent</b> 25%

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0%
<b>Matrix Notes</b>	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.				
	<b>Adjustment</b>				\$7,500

\$2,500

**Violation Events**

Number of Violation Events        Number of violation days

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

**Violation Base Penalty**

Thirteen monthly events are recommended from the release investigation due date of April 30, 2009 to the May 10, 2010 screening date.

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)
<b>Notes</b>	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** THOMAS PETROLEUM, LLC (Station 1)  
**Case ID No.** 39658  
**Reg. Ent. Reference No.** RN101617165  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	30-Apr-2009	28-Jan-2011	1.75	\$437	n/a	\$437

Notes for DELAYED costs

Estimated cost to investigate a suspected release. Date Required is the date when the release investigation was due. 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

\$5,000

**TOTAL**

\$437

<b>Screening Date</b>	10-May-2010	<b>Docket No.</b>	2010-0751-PST-E	<b>PCW</b>
<b>Respondent</b>	THOMAS PETROLEUM, LLC (Station 1)			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	39658			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101617165			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Keith Frank			
<b>Violation Number</b>	4			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.42(i)			
<b>Violation Description</b>	Failed to inspect all sumps, manways, overflow containers or catchment basins associated with a UST system at least once every 60 days to assure their sides, bottoms, and any penetration points are maintained liquid-tight and free of debris and liquid.			
<b>Base Penalty</b>	\$10,000			

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

<b>OR</b>	<b>Harm</b>			<b>Percent</b>	
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual				
Potential		x		10%	

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	<b>Percent</b>
					0%

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

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events   Number of violation days

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

**Violation Base Penalty** \$1,000

One quarterly event is recommended based on documentation of the violation during the March 25, 2010 investigation to the April 8, 2010 date of compliance.

**Good Faith Efforts to Comply**  Reduction

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

**Notes**  
The Respondent came into compliance on April 8, 2010 prior to the NOE dated April 29, 2010.

**Violation Subtotal** \$750

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

**Estimated EB Amount** \$106 **Violation Final Penalty Total** \$765

**This violation Final Assessed Penalty (adjusted for limits)** \$765

## Economic Benefit Worksheet

**Respondent** THOMAS PETROLEUM, LLC (Station 1)  
**Case ID No.** 39658  
**Reg. Ent. Reference No.** RN101617165  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	24-Jan-2010	8-Apr-2010	1.12	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of not conducting bimonthly inspections of the sumps, manways, overflow containers or catchment basins. Date Required is 60 days prior to the investigation. Final Date is the date of compliance.

Approx. Cost of Compliance

\$100

**TOTAL**

\$106

<b>Screening Date</b>	10-May-2010	<b>Docket No.</b>	2010-0751-PST-E	<b>PCW</b>
<b>Respondent</b>	THOMAS PETROLEUM, LLC (Station 1)			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	39658			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN101617165			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Keith Frank			
<b>Violation Number</b>	5			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, swivel adapters were not installed on the fill ports and dry breaks.			
	<b>Base Penalty</b>	\$10,000		

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

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	<b>Actual</b>				<b>Percent</b> 10%
<b>Potential</b>		x			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> 0%

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

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events 1 46 Number of violation days

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

**Violation Base Penalty** \$1,000

One quarterly event is recommended based on documentation of the violation during the March 25, 2010 investigation to the May 10, 2010 screening date.

**Good Faith Efforts to Comply** 10.0% Reduction \$100

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

**Notes**  
The Respondent came into compliance on May 11, 2010 after the NOE dated April 29, 2010.

**Violation Subtotal** \$900

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

**Estimated EB Amount** \$4

**Violation Final Penalty Total** \$918

**This violation Final Assessed Penalty (adjusted for limits)** \$918

## Economic Benefit Worksheet

**Respondent** THOMAS PETROLEUM, LLC (Station 1)  
**Case ID No.** 39658  
**Reg. Ent. Reference No.** RN101617165  
**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)	\$624	25-Mar-2010	11-May-2010	0.13	\$4	n/a	\$4

Notes for DELAYED costs

Actual cost to install swivel adapters on the fill ports and dry breaks per invoice. Date Required is the investigation date. 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

\$624

**TOTAL**

\$4

**Screening Date** 10-May-2010 **Docket No.** 2010-0751-PST-E **PCW**  
**Respondent** THOMAS PETROLEUM, LLC (Station 1) *Policy Revision 2 (September 2002)*  
**Case ID No.** 39658 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101617165  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Keith Frank

**Violation Number** 6  
**Rule Cite(s)** 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual compliance testing was not conducted by the due date of February 28, 2008.

**Base Penalty** \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	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** \$7,500

\$2,500

**Violation Events**

Number of Violation Events 1 365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

*mark only one with an x*

**Violation Base Penalty** \$2,500

One annual event is recommended.

**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 March 4, 2009 prior to the NOE dated April 29, 2010.

**Violation Subtotal** \$1,875

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

**Estimated EB Amount** \$548

**Violation Final Penalty Total** \$1,911

**This violation Final Assessed Penalty (adjusted for limits)** \$1,911

## Economic Benefit Worksheet

**Respondent** THOMAS PETROLEUM, LLC (Station 1)  
**Case ID No.** 39658  
**Reg. Ent. Reference No.** RN101617165  
**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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	28-Feb-2008	4-Mar-2009	1.93	\$48	\$500	\$548
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for not conducting annual testing of the Stage II equipment. Date Required is the date the testing was due. Final Date is the date of compliance.

Approx. Cost of Compliance

\$500

**TOTAL**

\$548

**Screening Date** 10-May-2010 **Docket No.** 2010-0751-PST-E **PCW**  
**Respondent** THOMAS PETROLEUM, LLC (Station 1) *Policy Revision 2 (September 2002)*  
**Case ID No.** 39658 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101617165  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Keith Frank

**Violation Number** 7  
**Rule Cite(s)** 30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment.

**Base Penalty** \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				10%
	Potential		x		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

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

**Adjustment** \$9,000

\$1,000

**Violation Events**

	1	46	Number of violation days
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

**Violation Base Penalty** \$1,000

One quarterly event is recommended based on documentation of the violation during the March 25, 2010 investigation to the May 10, 2010 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** \$1,000

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

**Estimated EB Amount** \$8 **Violation Final Penalty Total** \$1,019

**This violation Final Assessed Penalty (adjusted for limits)** \$1,019

## Economic Benefit Worksheet

**Respondent** THOMAS PETROLEUM, LLC (Station 1)  
**Case ID No.** 39658  
**Reg. Ent. Reference No.** RN101617165  
**Media** Petroleum Storage Tank  
**Violation No.** 7

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	\$200	25-Mar-2010	28-Jan-2011	0.85	\$8	n/a	\$8
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 of training a Stage II Station representative and conducting in-house employee Stage II training.  
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

\$200

**TOTAL**

\$8



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	19-Jul-2010	<b>Screening</b>	27-Jul-2010	<b>EPA Due</b>	
	<b>PCW</b>	19-May-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	THOMAS PETROLEUM, LLC (Station 2)		
<b>Reg. Ent. Ref. No.</b>	RN104005186		
<b>Facility/Site Region</b>	11-Austin	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	39658	<b>No. of Violations</b>	3
<b>Docket No.</b>	2010-0751-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$45,000**

### 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** **\$625**

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

Total EB Amounts **\$431**  
 Approx. Cost of Compliance **\$5,286**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$44,375**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.2%** **Adjustment** **\$100**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

**Final Penalty Amount** **\$44,475**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$44,475**

**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** **\$44,475**

Screening Date 27-Jul-2010

Docket No. 2010-0751-PST-E

PCW

Respondent THOMAS PETROLEUM, LLC (Station 2)

Policy Revision 2 (September 2002)

Case ID No. 39658

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104005186

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	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)** 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 27-Jul-2010

Docket No. 2010-0751-PST-E

PCW

Respondent THOMAS PETROLEUM, LLC (Station 2)

Policy Revision 2 (September 2002)

Case ID No. 39658

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104005186

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report a suspected release to the agency within 24 hours after a failing statistical inventory reconciliation ("SIR") analysis report. Specifically, the Respondent did not report a suspected release after receiving a failing evaluation from the SIR vendor for the month of October 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%
100% of the rule requirement was not met.					

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 1 Number of violation days

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

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

	0.0%	Reduction
		Before NOV NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

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 \$100

Violation Final Penalty Total \$2,506

This violation Final Assessed Penalty (adjusted for limits) \$2,506

## Economic Benefit Worksheet

**Respondent** THOMAS PETROLEUM, LLC (Station 2)  
**Case ID No.** 39658  
**Req. Ent. Reference No.** RN104005186  
**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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	31-Oct-2009	1-Nov-2009	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to not report a suspected release. Date Required is the date of the suspected release. Final Date is the date the report was due.

Approx. Cost of Compliance \$100

**TOTAL** \$100

Screening Date 27-Jul-2010

Docket No. 2010-0751-PST-E

PCW

Respondent THOMAS PETROLEUM, LLC (Station 2)

Policy Revision 2 (September 2002)

Case ID No. 39658

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104005186

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to immediately investigate a suspected release of a regulated substance after the receipt of a failing SIR analysis report. Specifically, the Respondent did not investigate a suspected release after receiving a failing evaluation from the SIR vendor for the month of October 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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 8 239 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$40,000

Eight monthly events are recommended from the release investigation due date of November 30, 2009 to the July 27, 2010 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 \$40,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$331

Violation Final Penalty Total \$40,090

This violation Final Assessed Penalty (adjusted for limits) \$40,090

## Economic Benefit Worksheet

**Respondent** THOMAS PETROLEUM, LLC (Station 2)  
**Case ID No.** 39658  
**Req. Ent. Reference No.** RN104005186  
**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)	\$5,000	30-Nov-2009	28-Mar-2011	1.32	\$331	n/a	\$331

Notes for DELAYED costs

Estimated cost to investigate a suspected release. Date Required is the date when the release investigation was due. 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

\$5,000

**TOTAL**

\$331

Screening Date 27-Jul-2010

Docket No. 2010-0751-PST-E

PCW

Respondent THOMAS PETROLEUM, LLC (Station 2)

Policy Revision 2 (September 2002)

Case ID No. 39658

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104005186

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.222(3) and (6), and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to ensure that no gasoline leaks exist anywhere in the liquid transfer or vapor balance system and failed to ensure that each vapor balance system vent line is equipped with a pressure-vacuum relief valve set to open at a pressure of no more than eight ounces per square inch, as documented during an investigation conducted on May 24, 2010. Specifically, the vapor adaptor on tank no. 2 had a hole in the rubber seal and there were no pressure-vacuum relief valves installed at the Station.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 14 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the May 24, 2010 investigation to the June 7, 2010 date of compliance.

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 June 7, 2010 prior to the Notice of Enforcement dated July 16, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,879

This violation Final Assessed Penalty (adjusted for limits) \$1,879

## Economic Benefit Worksheet

**Respondent** THOMAS PETROLEUM, LLC (Station 2)  
**Case ID No.** 39658  
**Req. Ent. Reference No.** RN104005186  
**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)	\$100	24-May-2010	7-Jun-2010	0.04	\$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)	\$86	24-May-2010	7-Jun-2010	0.04	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace the seal on tank no. 2's vapor adaptor (\$100) and to install pressure-vacuum relief valves on the vent lines (\$86). Date Required is the investigation date. 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

\$186

**TOTAL**

\$0

## Compliance History

Customer/Respondent/Owner-Operator: CN603223793 THOMAS PETROLEUM, LLC Classification: AVERAGE Rating: 3.72

Regulated Entity: RN101617165 Dickerson Exxon Stop Classification: HIGH Site Rating: 0.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 26760  
REGISTRATION

Location: 107 N TWIN CITY HWY, NEDERLAND, TX, 77627

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: November 15, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 15, 2005 to November 15, 2010

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

Name: Keith Frank Phone: (512) 239-1203

### 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: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 4/29/2010 (796621)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603223793 Thomas Petroleum, LLC Classification: AVERAGE Rating: 7.11  
 Regulated Entity: RN104005186 TP 2511 Classification: AVERAGE Site Rating: 3.01  
 BY DEFAULT  
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 68462  
 REGISTRATION  
 Location: 13701 INTERSTATE 35, PFLUGERVILLE, TRAVIS CO., TX  
 TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: August 02, 2010  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: August 02, 2005 to August 02, 2010

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

Name: Evette Alvarado Phone: (512) 239 - 2573

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Thomas Petroleum, LLC
4. If Yes, who was/were the prior owner(s)/operator(s)?  

OWN	Metro Suppliers, Incorporated
OPR	Metro Suppliers, Inc.
5. When did the change(s) in owner or operator occur?  

11/16/2006	OWN	Metro Suppliers, Incorporated
	OPR	Metro Suppliers, Inc.
6. Rating Date: 9/1/2009 Repeat Violator: NO

## Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 07/13/2010 (799864)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
THOMAS PETROLEUM, LLC;  
RN101617165 AND RN104005186**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2010-0751-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding THOMAS PETROLEUM, LLC ("Respondent") 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 Respondent, represented by Donald H. Grissom and William W. Thompson, III of the law firm Grissom & Thompson, L.L.P., appear before the Commission and together stipulate that:

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(73), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 107 North Twin City Highway in Nederland, Jefferson County, Texas (the "Nederland Station") (RN101617165). The USTs at the Nederland Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Nederland Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(73), a UST system and a convenience store with retail sales of gasoline located at 13701 Interstate 35 in Pflugerville, Travis County, Texas (the "Pflugerville Station") (RN104005186). The USTs at the Pflugerville Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Pflugerville Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH AND SAFETY CODE ch. 382, and TCEQ rules.
4. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of eighty-four thousand four dollars (\$84,004.00) is assessed by the Commission in settlement of the violations alleged in Section II. Pursuant to TEX. WATER CODE § 7.067, forty-two thousand two dollars (\$42,002.00) of the administrative penalty shall be conditionally offset by Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

If Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the SEP Agreement and any payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the conditionally offset portion of the administrative penalty shall become immediately due and payable without demand or notice. The acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order, and the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

Respondent paid one thousand four hundred two dollars (\$1,402.00) of the administrative penalty. The remaining amount of forty thousand six hundred dollars (\$40,600.00) shall be payable in thirty-five (35) monthly payments of one thousand one hundred sixty dollars (\$1,160.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full.

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 Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Nederland Station:
  - a. Submitted a properly completed UST registration and self-certification form to TCEQ on April 26, 2010 (Allegation No. 1.a.);
  - b. Submitted a Release Determination Report ("RDR") and tank tightness test with passing results to TCEQ on or about September 27, 2010, which indicated that there was no release of petroleum product (Allegation Nos. 1.b. and 1.c.);

- c. Submitted documentation reflecting that bimonthly inspections of the spill and overspill containers are being conducted on April 8, 2010 (Allegation No. 1.d.);
  - d. Installed swivel adapters on the fill ports and dry breaks on May 11, 2010 (Allegation No. 1.e.); and
  - e. Completed testing of the Stage II vapor recovery system on March 4, 2009, with passing results (Allegation No. 1.f.).
10. The Executive Director recognizes that Respondent implemented the following corrective measures at the Pflugerville Station:
- a. Submitted to TCEQ a Release Determination Report ("RDR") to TCEQ on or about November 15, 2010, and tank tightness test with passing results on or about December 27, 2010, which indicated that there was no release of petroleum product (Allegation Nos. 2.a. and 2b.); and
  - b. Replaced the seal on the vapor adaptor of tank no. 2 and installed pressure-vacuum relief valves on the vapor balance system vent lines on June 7, 2010 (Allegation No. 2.c.).
11. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
12. 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.
13. 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 at the Nederland Station on March 25, 2010, a TCEQ Beaumont Regional investigator documented that Respondent:
  - a. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3). Specifically, the registration was not updated to reflect the current release detection information for the Station;
  - b. Failed to report a suspected release to the TCEQ within 24 hours after an inconclusive statistical inventory reconciliation ("SIR") analysis report, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, Respondent did not report a suspected release after receiving an inconclusive evaluation from the SIR vendor for the month of March 2009;

- c. Failed to immediately investigate a suspected release of regulated substances within 30 days after the receipt of an inconclusive SIR analysis report, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, Respondent did not investigate a suspected release after receiving an inconclusive evaluation from the SIR vendor for the month of March 2009;
  - d. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure their sides, bottoms, and any penetration points are maintained liquid-tight and free of debris and liquid, in violation of 30 TEX. ADMIN. CODE § 334.42(i);
  - e. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, swivel adapters were not installed on the fill ports and dry breaks;
  - f. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Stage II annual compliance testing was not conducted by the due date of February 28, 2008; and
  - g. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
2. During an investigation conducted on May 24, 2010, at the Pflugerville Station, a TCEQ Austin Regional investigator documented that Respondent:
- a. Failed to report a suspected release to the TCEQ within 24 hours after an inconclusive SIR analysis report, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, Respondent did not report a suspected release after receiving an inconclusive evaluation from the SIR vendor for the month of October 2009;
  - b. Failed to immediately investigate a suspected release of regulated substances within 30 days after the receipt of an inconclusive SIR analysis report, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, Respondent did not investigate a suspected release after receiving an inconclusive evaluation from the SIR vendor for the month of October 2009; and
  - c. Failed to ensure that no gasoline leaks exist anywhere in the liquid transfer or vapor balance system, and failed to ensure that each vapor balance system vent line is equipped with a pressure-vacuum relief valve set to open at a pressure of no more than eight ounces per square inch, in violation of 30 TEX. ADMIN. CODE § 115.222(3) and (6) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the vapor adaptor on tank no. 2 had a hole in the rubber seal and the vapor balance system vent line was not equipped with a pressure-vacuum relief valve.

3. Respondent received notice of the violations alleged in Section II, Paragraph Nos. 1.a. through 1.e. on or about May 4, 2010. Respondent received notice of the violations alleged in Section II, Paragraph Nos. 2.a. through 2.c. on or about July 21, 2010.

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions 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: THOMAS PETROLEUM, LLC, Docket No. 2010-0751-PST-E" to:

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Respondent shall implement and complete a SEP as set forth in Section I, Paragraph 6, above. The amount of forty-two thousand two hundred two dollars (\$42,202.00) of the assessed administrative penalty is conditionally offset based on the condition that Respondent implement and complete a SEP pursuant to the terms and conditions contained in the SEP Agreement, as defined in Attachment A. Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director. Administrative penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. Respondent shall undertake the following technical requirements at the Nederland Station:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Establish and implement a process for reporting and investigating suspected releases, including appropriate corrective measures for determining suspected releases, in accordance with 30 TEX. ADMIN. CODE §§ 334.72 and 334.74; and

- ii. Complete the required Stage II Station representative training and ensure each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system (Allegation 1.g.), in accordance with 30 TEX. ADMIN. CODE § 115.248.
  - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.a., in accordance with Ordering Provision No. 4.b., below.
4. Respondent shall undertake the following technical requirements at the Pflugerville Station:
  - a. Within 30 days after the effective date of this Agreed Order, Respondent shall establish and implement a process for reporting and investigating suspected releases, including appropriate corrective measures for determining suspected releases, in accordance with 30 TEX. ADMIN. CODE §§ 334.72 and 334.74.
  - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 4.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Respondent shall submit the written certifications and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Barry Kalda, Waste Section Manager  
Texas Commission on Environmental Quality  
Austin Regional Office  
2800 S. IH 35, Ste. 100  
Austin, TX 78704-5712

and:

Derek Eades, Waste Section Manager  
Texas Commission on Environmental Quality  
Beaumont Regional Office  
3870 Eastex Fwy.  
Beaumont, TX 77703-1830

5. All relief not expressly granted in this Agreed Order is denied.
6. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
7. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic

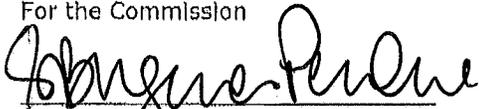
transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

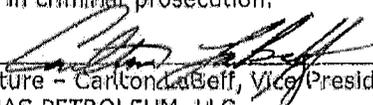
9/13/2011  
Date

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 THOMAS PETROLEUM, LLC, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
Signature - Carlton LaBeff, Vice President  
THOMAS PETROLEUM, LLC

9/12/11  
Date

**Attachment A**  
**Docket Number: 2010-0751-PST-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	Thomas Petroleum, LLC
<b>Penalty Amount:</b>	Eighty-Four Thousand Four Dollars (\$84,004)
<b>SEP Offset Amount:</b>	Forty-Two Thousand Two Dollars (\$42,002)
<b>Type of SEP:</b>	Pre-approved
<b>Third-Party Recipient:</b>	Jefferson County
<b>Project Name:</b>	<i>Cheek Community First Time Sewer Service for Low-Income Home Owners</i>
<b>Location of SEP:</b>	Jefferson County

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

**1. Project Description**

A. Project

Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to Jefferson County for the *Cheek Community First Time Sewer Service for Low-Income Home Owners*. The contribution will be used in accordance with the Supplemental Environmental Project between the Third-Party Recipient and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to provide first time sewer service for approximately 81 Low-Income residential customers in the Candlelight and Martel Subdivisions (Cheek Community) located in the western area of Jefferson County. This area has open sewage pits or poorly maintained septic systems which are a hazard to human health and the environment.

All dollars contributed will be used solely for the direct cost of the Project and no portion will be spent on administrative costs. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action.

## B. Environmental Benefit

The SEP will provide a discernible environmental benefit by preventing the continued release of raw sewage into the environment, and protect ground, surface and drinking water sources from contamination by open wells. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources
- Direct contact in areas of public access such as basements, lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

## C. Minimum Expenditure

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, Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order to:

Mario C. Watkins, Executive Assistant  
Jefferson County Courthouse  
1149 Pearl Street 4<sup>th</sup> Floor  
Beaumont, Texas 77701

## 3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Litigation Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

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

#### **4. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

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

#### **5. Publicity**

Any public statements concerning this SEP made by or on behalf of 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**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.