

Tadeo B. Pina Jr.

RN101823474

Docket No. 2010-0770-MLM-E

Order Type:

Agreed Order

Findings Order Justification:

N/A

Media:

MLM - PST and Used Oil

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

131 East Avenue A, Robstown, Nueces County

Type of Operation:

inactive underground storage tank ("UST")

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: \$8,340

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$255

Total Due to General Revenue: \$8,085

Payment Plan: 35 payments of \$231 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average

Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Tadeo B. Pina Jr.

RN101823474

Docket No. 2010-0770-MLM-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: March 22, 2010; April 27, 2010
Date(s) of NOV(s): August 20, 2009
Date(s) of NOE(s): April 25, 2010; June 9, 2010

Violation Information

1. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].
2. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access tampering or vandalism by unauthorized persons [30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(b)(2)].
3. Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0011214U for fiscal years 1995 through 2007 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].
4. Failed to store used oil in containers that do not leak and are in good condition; and failed to, upon detection of a release of used oil to the environment, stop the release, contain the release, properly clean up and manage the release, and if necessary repair/replace any leaking used oil containers [30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(b) and (d)].
5. Failed to clearly label containers storing used oil [30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Removed the USTs from the ground and properly disposed of all used oil from the Facility;
2. Submitted an updated UST registration reflecting the current owner's contact information, correct facility address, and current operational status of the UST system;
3. Submitted a Release Determination Report to the TCEQ Remediation Division summarizing the initial abatement steps taken, and was issued Leaking Petroleum Storage Tank Identification No. 114215; and
4. Paid all outstanding fees, including penalties and interest, for Account No. 0011214U.

Technical Requirements:

1. Continue and complete Facility cleanup and Remediation activities as directed by the Executive Director.
2. Respond completely and adequately to all requests for information concerning remediation activities at the Facility within 30 days after the date of such requests, or by any other deadline specified by TCEQ in writing.

Tadeo B. Pina Jr.

RN101823474

Docket No. 2010-0770-MLM-E

Litigation Information

Date Petition(s) Filed: December 10, 2010
Date Answer(s) Filed: December 16, 2010
SOAH Referral Date: January 18, 2011
Hearing Date(s):
 Preliminary hearing: March 24, 2011 (waived)
 Evidentiary hearing: August 11, 2011
Settlement Date: July 28, 2011

Contact Information

TCEQ Attorneys: Sharesa Y. Alexander, Litigation Division, (512) 239-3503
 Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Wallace Myers, Waste Enforcement Section, (512) 239-6580

TCEQ Regional Contact: Brad Genzer, Corpus Christi Regional Office, (361) 825-3106

Respondent: Tadeo B. Pina Jr., 5410 Pressler Drive, Corpus Christi, Texas 78413

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	26-Apr-2010	Screening	27-Apr-2010	EPA Due	
	PCW	15-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Tadeo B. Pina Jr.				
Reg. Ent. Ref. No.	RN101823474				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	39677	No. of Violations	3	
Docket No.	2010-0770-MLM-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No	
Multi-Media	Used Oil	Enf. Coordinator	Wallace Myers	
		EC's Team	Enforcement Team 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$6,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement *Subtotals 2, 3, & 7* **\$300**

Notes

Enhancement for one notice of violation ("NOV") for same or similar violations.

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* **\$0**

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

Total EB Amounts	\$3,044
Approx. Cost of Compliance	\$5,350

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$6,300**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$6,300**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$6,300**

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

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

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$6,300**

Screening Date 27-Apr-2010

Docket No. 2010-0770-MLM-E

PCW

Respondent Tadeo B. Pina Jr.

Policy Revision 2 (September 2002)

Case ID No. 39677

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101823474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one notice of violation ("NOV") for same or similar violations.

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

Screening Date 27-Apr-2010

Docket No. 2010-0770-MLM-E

PCW

Respondent Tadeo B. Pina Jr.

Policy Revision 2 (September 2002)

Case ID No. 39677

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101823474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to notify the agency of any change or additional information regarding the underground storage tanks ("USTs") within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the owner's current contact information and correct facility address.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
			x	

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

36 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the March 22, 2010 investigation.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Tadeo B. Pina Jr.
Case ID No. 39677
Reg. Ent. Reference No. RN101823474
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	22-Mar-2010	10-Feb-2011	0.89	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The date required is the date of the investigation and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 27-Apr-2010 **Docket No.** 2010-0770-MLM-E **PCW**
Respondent Tadeo B. Pina Jr. *Policy Revision 2 (September 2002)*
Case ID No. 39677 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101823474
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation 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" value="x"/>
quarterly	<input type="text"/>
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 EDP RP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

Notes

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 Tadeo B. Pina Jr.
Case ID No. 39677
Reg. Ent. Reference No. RN101823474
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)	\$250	22-Mar-2010	27-Dec-2010	0.77	\$1	\$13	\$13
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	22-Dec-1998	26-Jan-2011	12.10	\$3,026	n/a	\$3,026

Notes for DELAYED costs

Estimated cost to lock and secure the fill ports and Stage I drybreaks (\$250) and the estimated minimum cost to permanently remove five USTs from service (\$5,000). The dates required are the date of the investigation and the date when the Respondent was required to upgrade the UST system and the final dates are the estimated dates 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

\$5,250

TOTAL

\$3,039

Screening Date 27-Apr-2010 **Docket No.** 2010-0770-MLM-E **PCW**
Respondent Tadeo B. Pina Jr. *Policy Revision 2 (September 2002)*
Case ID No. 39677 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101823474
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR	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 type="text"/>	<input type="text"/>	<input type="text"/>	
<input type="text" value=""/>					
Adjustment					<input type="text" value="\$10,000"/>

Violation Events

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

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="(mark with x)"/>	
Notes	<input type="text" value=""/>	
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 Tadeo B. Pina Jr.
Case ID No. 39677
Reg. Ent. Reference No. RN101823474
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

n/a

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	26-Apr-2010	Screening	27-Apr-2010	EPA Due	
	PCW	15-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Tadeo B. Pina Jr.				
Reg. Ent. Ref. No.	RN101823474				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	39677	No. of Violations	2	
Docket No.	2010-0770-MLM-E	Order Type	1660	
Media Program(s)	Used Oil	Government/Non-Profit	No	
Multi-Media	Petroleum Storage Tank	Enf. Coordinator	Wallace Myers	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$2,500
		EC's Team	Enforcement Team 7	

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **2.0%** Enhancement **Subtotals 2, 3, & 7**

Notes

Enhancement for one notice of violation ("NOV") for dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4**

Notes

The Respondent does not meet the culpability criteria.

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

Economic Benefit **0.0%** Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance

*Capped at the Total EB \$ Amount

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **0.0%** Reduction **Adjustment**

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

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

Screening Date 27-Apr-2010

Docket No. 2010-0770-MLM-E

PCW

Respondent Tadeo B. Pina Jr.

Policy Revision 2 (September 2002)

Case ID No. 39677

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101823474

Media [Statute] Used Oil

Enf. Coordinator Wallace Myers

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one notice of violation ("NOV") for dissimilar violations.

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

Screening Date 27-Apr-2010

Docket No. 2010-0770-MLM-E

PCW

Respondent Tadeo B. Pina Jr.

Policy Revision 2 (September 2002)

Case ID No. 39677

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101823474

Media [Statute] Used Oil

Enf. Coordinator Wallace Myers

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 324.1 and 40 Code of Federal Regulations § 279.22(b) and (d)

Violation Description Failed to store used oil in containers that do not leak and are in good condition. Also, failed to, upon detection of a release of used oil to the environment, stop the release, contain the release, properly clean up and manage the release, and if necessary repair/replace any leaking used oil containers. Specifically, there was a 13-gallon trash can containing used oil and three 55-gallon drums which were in poor condition, rusted, and discharging their contents during rain events. The soil and wall near the drums at the rear of the building were stained from oil discharge.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 4 64 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

Four quarterly events, one per container, are recommended based on documentation of the violation during the March 22, 2010 investigation to the April 27, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement
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 \$85

Violation Final Penalty Total \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

Economic Benefit Worksheet

Respondent Tadeo B. Pina Jr.
Case ID No. 39677
Reg. Ent. Reference No. RN101823474
Media Used Oil
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	\$1,500	22-Mar-2010	26-Jan-2011	0.85	\$64	n/a	\$64
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	22-Mar-2010	26-Jan-2011	0.85	\$21	n/a	\$21

Notes for DELAYED costs

Estimated cost to abate, remediate, and dispose of impacted soil in regards to the spill affected area (\$1,500) and to properly dispose of all used oil at the facility (\$500). The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$85

Screening Date 27-Apr-2010 **Docket No.** 2010-0770-MLM-E **PCW**
Respondent Tadeo B. Pina Jr. *Policy Revision 2 (September 2002)*
Case ID No. 39677 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101823474
Media [Statute] Used Oil
Enf. Coordinator Wallace Myers

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 324.1 and 40 Code of Federal Regulations § 279.22(c)(1)
Violation Description Failed to clearly label containers storing used oil. Specifically, three 55-gallon drums and one 13-gallon trash can containing used oil were not labeled with the words "Used Oil".

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 4 64 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Four single events, one per container, are recommended.

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 \$4

Violation Final Penalty Total \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

Economic Benefit Worksheet

Respondent Tadeo B. Pina Jr.
Case ID No. 39677
Reg. Ent. Reference No. RN101823474
Media Used Oil
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	22-Mar-2010	26-Jan-2011	0.85	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to properly label all used oil containers with the words "Used Oil." The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Compliance History Report

Customer/Respondent/Owner-Operator: CN600991368 Tadeo B. Pina Jr. Classification: AVERAGE Rating: 3.00
Regulated Entity: RN101823474 Wallys Garage Classification: AVERAGE Site Rating: 3.00
ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 22717

Location: 131 E AVE A, ROBSTOWN, TX, 78413

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: April 29, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 29, 2005 to April 29, 2010

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

Name: Wallace Myers Phone: 512-239-6580

Site Compliance History Components

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

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court 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 08/20/2009 (745606)
 - 2 04/20/2010 (796765)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/20/2009 (745606) CN600991368

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: 30 Tex. Admin. Code Section 334.7(d)(3) - Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: 30 Tex. Admin. Code Section 334.47(a)(2) - Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TADEO B. PINA JR.;
RN101823474**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-0770-MLM-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 Tadeo B. Pina Jr. ("Respondent") under the authority of TEX. WATER CODE chs. 5, 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 371. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent 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 garage located at 131 East Avenue A in Robstown, Nueces County, Texas (the "Facility"). The USTs at the Facility 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 Facility involves the management of used oil as defined in TEX. HEALTH & SAFETY CODE ch. 371.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26, TEX. HEALTH & SAFETY CODE ch. 371, and TCEQ rules.
3. 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.
4. 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.
5. An administrative penalty in the amount of eight thousand three hundred forty dollars (\$8,340.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two hundred fifty-five dollars (\$255.00) of the administrative penalty. The remaining amount of eight thousand eighty-five dollars (\$8,085.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred thirty-one dollars (\$231.00) each. The first

monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Removed the petroleum storage tanks from the ground and properly disposed of all used oil from the Facility on August 6, 2010;
 - b. Submitted an updated UST registration on August 31, 2010, reflecting the current owner's contact information, correct facility address, and current operational status of the UST system;
 - c. Submitted a Release Determination Report to the TCEQ Remediation Division on September 8, 2010, summarizing the initial abatement steps taken and was issued Leaking Petroleum Storage Tank Identification No. 114215; and
 - d. Completed payment of all outstanding fees, including penalties and interest, for Account No. 0011214U on October 31, 2010.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on March 22, 2010, a TCEQ Corpus Christi Regional Office investigator documented that Respondent:
 - a. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the owner's current contact information and correct facility address, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3); and
 - b. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements; and failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access tampering or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(b)(2).
2. Respondent received notice of the violations alleged in Section II, Paragraph Nos. 1.a. and 1.b., on or about May 1, 2010.
3. During an overdue fees investigation conducted on April 27, 2010, a TCEQ enforcement coordinator documented that Respondent failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0011214U for fiscal years 1995 through 2007, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702.
4. Respondent received notice of the violation alleged in Section II, Paragraph No. 3, on or about June 14, 2010.
5. During an investigation conducted on March 22, 2010, a TCEQ Corpus Christi Regional Office investigator documented that Respondent violated the following requirements:
 - a. Failed to store used oil in containers that do not leak and are in good condition; and failed to, upon detection of a release of used oil to the environment, stop the release, contain the release, properly clean up and manage the release, and if necessary repair/replace any leaking used oil containers, in violation of 30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(b) and (d). Specifically, there was a 13-gallon trash can containing used oil and three 55-gallon drums which were in poor condition, rusted and discharging their contents during rain events. The soil and wall near the drums at the rear of the building were stained from oil discharge; and
 - b. Failed to clearly label containers storing used oil, in violation of 30 TEX. ADMIN. CODE § 324.1 and 40 C.F.R. § 279.22(c)(1). Specifically, three 55-gallon drums and one 13-gallon trash can containing used oil were not labelled with the words "Used Oil."

6. Respondent received notice of the violations alleged in Section II, Paragraph Nos. 5.a. and 5.b., on or about May 1, 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 5, 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: Tadeo B. Pina Jr., Docket No. 2010-0770-MLM-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 undertake the following technical requirements:
 - a. Continue and complete Facility cleanup and Remediation activities, in accordance with 30 TEX. ADMIN. CODE ch. 334 D and G (relating to Release Reporting and Corrective Action, and Target Concentration Criteria, respectively) and other applicable guidance approved by the Executive Director.
 - b. Respondent shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning Respondent's activities with regard to remediation activities at the Facility under Ordering Provision No. 2.a. within 30 days after the date of such requests, or by any other deadline specified by TCEQ in writing.
3. All relief not expressly granted in this Agreed Order is denied.
4. 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 Facility operations referenced in this Agreed Order.

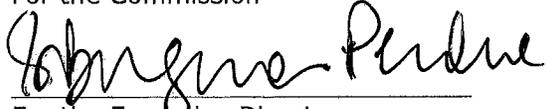
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall 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.
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 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.
7. 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.
8. 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.

9. 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

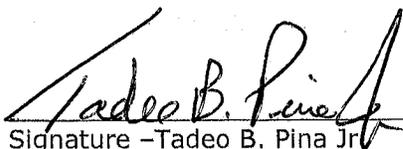
Date

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 Tadeo B. Pina Jr., 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 - Tadeo B. Pina Jr. Owner

7/28/11

Date