

Executive Summary – Enforcement Matter – Case No. 38426
BISMA-ZAEEM, INC. D/B/A B-Z MART
RN102349917
Docket No. 2009-1555-MLM-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
MLM – PST and IHW

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
500 West Garland Street, Grand Saline, Van Zandt County

Type of Operation:
convenience store

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: September 30, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$13,468

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$378

Total Due to General Revenue: \$13,090

Payment Plan: 35 payments of \$374

SEP Conditional Offset: N/A

Compliance History Classifications:
Person/CN – High
Site/RN – High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: June 9, 2009; July 31, 2009
Date(s) of NOV(s): N/A
Date(s) of NOE(s): August 11, 2009

Violation Information

1. Failed to notify the agency of any change or additional information regarding the underground storage tanks within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].
2. Failed to provide a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances; failed to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I), and TEX. WATER CODE § 26.3475(c)(1)].
3. Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].
4. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].
5. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].
6. Failed to properly prepare and complete waste manifests as required [30 TEX. ADMIN. CODE § 335.10(a) and 40 C.F.R. § 262.20(a)(1)].
7. Failed to conduct a hazardous waste determination for each solid waste generated [30 TEX. ADMIN. CODE § 335.62 and 40 C.F.R. § 262.11].
8. Failed to dispose of industrial hazardous waste at an authorized facility and failed to notify the agency of the intent to dispose of industrial hazardous waste prior to beginning disposal activities [30 TEX. ADMIN. CODE §§ 335.2(b) and 335.6(a)].
9. Failed to obtain an Environmental Protection Agency (EPA) identification number before storing, processing, disposing of, transporting, or offering for transportation a hazardous waste [30 TEX. ADMIN. CODE § 335.63(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Immediately, begin conducting proper inventory control procedures for all USTs at the Facility.
2. Within 30 days:
 - a. Submit an amended registration to reflect the current operational status of the UST system;
 - b. Install and implement a release detection method for all USTs at the facility and begin recording volume measurements and reconciliation of inventory control records;
 - c. Appropriately mark the top of each fill tube or nonremovable point in the immediate area of the fill tube of each UST with an identification number that matches the number listed on the UST registration and self-certification form; and
 - d. Begin maintaining the spill and overfill prevention equipment in proper operating condition including, but not limited to repairing the spill buckets and installing overfill prevention devices on the fill pipes.
3. Within 45 days:
 - a. Develop and implement a procedure for properly disposing of all hazardous waste at the Facility, including but not limited to conducting hazardous waste determinations, obtaining EPA waste identifications, and properly completing waste manifests; and
 - b. Develop and implement a procedure to notify the agency of the intent to manage hazardous waste at least 90 days prior to beginning future hazardous waste disposal activities.
4. Within 60 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: May 10, 2010
Date Answer(s) Filed: May 18, 2010
SOAH Referral Date: June 30, 2010
Hearing Date(s):
Preliminary hearing: July 29, 2010 (waived)
Evidentiary hearing: December 2, 2010 (continued to October 27, 2011)
Settlement Date: September 6, 2011

Contact Information

TCEQ Attorneys: Jeffrey Huhn, Litigation Division, MC R-13, (210) 403-4023
Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ SEP Coordinator: N/A
TCEQ Enforcement Coordinator: Wallace Myers, Waste Enforcement Division, (512) 239-6580
TCEQ Regional Contact: Michael Brashear, Tyler Regional Office, (903) 535-5176
Respondent: Shahzad Zulifqar, President, Bisma-Zaeem, Inc., 500 West Garland St., Grand Saline, Texas 75140
Respondent's Attorney: John L. Gamboa, Acuff & Gamboa, LLP, 2501 Parkview Drive, Ste. 405, Fort Worth, Texas 76102

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	17-Aug-2009	Screening	18-Aug-2009	EPA Due	
	PCW	23-Nov-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Bisma-Zaeem, Inc. dba B-Z Mart
Reg. Ent. Ref. No.	RN102349917
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	38426	No. of Violations	9	
Docket No.	2009-1555-MLM-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No	
Multi-Media	Industrial and Hazardous Waste	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	\$13,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Reduction	Subtotals 2, 3, & 7	-\$1,350
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Notes	Reduction due to high performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$1,486	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,950	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,150
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OTHER FACTORS AS JUSTICE MAY REQUIRE	10.8%	Adjustment	\$1,318
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 6, 7, 8 and 9.
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Final Penalty Amount	\$13,468
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,468
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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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.
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PAYABLE PENALTY	\$13,468
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Screening Date 18-Aug-2009

Docket No. 2009-1555-MLM-E

PCW

Respondent Bisma-Zaeem, Inc. dba B-Z Mart

Policy Revision 2 (September 2002)

Case ID No. 38426

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102349917

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 <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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

Screening Date	18-Aug-2009	Docket No.	2009-1555-MLM-E	PCW
Respondent	Bisma-Zaeem, Inc. dba B-Z Mart			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	38426			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102349917			
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 USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the UST system.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Violation Events

Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="70"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
	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="checkbox"/>	
One single event is recommended based on documentation of the violation during the June 9, 2009 investigation.			

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	
Violation Subtotal <input type="text" value="\$1,000"/>		

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

Estimated EB Amount	<input type="text" value="\$7"/>	Violation Final Penalty Total	<input type="text" value="\$998"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$998"/>	

Economic Benefit Worksheet

Respondent Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Reg. Ent. Reference No. RN102349917
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	9-Jun-2009	18-May-2010	0.94	\$0	\$6	\$7
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to 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

\$7

Screening Date 18-Aug-2009

Docket No. 2009-1555-MLM-E

PCW

Respondent Bisma-Zaeem, Inc. dba B-Z Mart

Policy Revision 2 (September 2002)

Case ID No. 38426

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102349917

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(a)(1)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contains regulated substances. Failed to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

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 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 70 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 June 9, 2009 investigation to the August 18, 2009 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$99

Violation Final Penalty Total \$2,494

This violation Final Assessed Penalty (adjusted for limits) \$2,494

Economic Benefit Worksheet

Respondent Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Reg. Ent. Reference No. RN102349917
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)	\$1,500	9-Jun-2009	18-May-2010	0.94	\$5	\$94	\$99
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to provide a method of release detection for the UST system including volume measurement and reconciliation of inventory control records. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$99

Screening Date 18-Aug-2009 **Docket No.** 2009-1555-MLM-E **PCW**
Respondent Bisma-Zaeem, Inc. dba B-Z Mart *Policy Revision 2 (September 2002)*
Case ID No. 38426 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102349917
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)
Violation Description Failed to conduct effective manual or automatic inventory control procedures for the UST system.

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 70 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the June 9, 2009 investigation to the August 18, 2009 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 \$2,500

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

Estimated EB Amount \$23 **Violation Final Penalty Total** \$2,494

This violation Final Assessed Penalty (adjusted for limits) \$2,494

Economic Benefit Worksheet

Respondent Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Reg. Ent. Reference No. RN102349917
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	9-Jun-2009	18-May-2010	0.94	\$23	n/a	\$23
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. 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

\$500

TOTAL

\$23

Screening Date	18-Aug-2009	Docket No.	2009-1555-MLM-E	PCW
Respondent	Bisma-Zaeem, Inc. dba B-Z Mart			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	38426			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102349917			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Wallace Myers			
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(C)			
Violation Description	Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.			
	Base Penalty	\$10,000		

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential			0%	

>> Programmatic Matrix

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

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	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the June 9, 2009 investigation.

Good Faith Efforts to Comply Reduction

	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 \$7 **Violation Final Penalty Total** \$998

This violation Final Assessed Penalty (adjusted for limits) \$998

Economic Benefit Worksheet

Respondent Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Reg. Ent. Reference No. RN102349917
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)	\$100	9-Jun-2009	18-May-2010	0.94	\$0	\$6	\$7
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to label the tank fill ports. The date required is the date of 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

\$7

Screening Date 18-Aug-2009 **Docket No.** 2009-1555-MLM-E **PCW**
Respondent Bisma-Zaeem, Inc. dba B-Z Mart *Policy Revision 2 (September 2002)*
Case ID No. 38426 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102349917
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)
Violation Description Failed to ensure that all spill and overflow prevention devices are maintained in good operating condition. Specifically, the spill buckets were damaged and not functioning properly and the fill pipes were not equipped with overflow prevention devices.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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 70 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the July 31, 2009 investigation to the August 18, 2009 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$1,000

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

Estimated EB Amount \$33 **Violation Final Penalty Total** \$998

This violation Final Assessed Penalty (adjusted for limits) \$998

Economic Benefit Worksheet

Respondent Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Reg. Ent. Reference No. RN102349917
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	9-Jun-2009	18-May-2010	0.94	\$2	\$31	\$33
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the spill buckets and install overfill prevention devices on the fill pipes. 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

\$500

TOTAL

\$33

Screening Date	18-Aug-2009	Docket No.	2009-1555-MLM-E	PCW					
Respondent	Bisma-Zaeem, Inc. dba B-Z Mart			<i>Policy Revision 2 (September 2002)</i>					
Case ID No.	38426			<i>PCW Revision October 30, 2008</i>					
Reg. Ent. Reference No.	RN102349917								
Media [Statute]	Petroleum Storage Tank								
Enf. Coordinator	Wallace Myers								
Violation Number	6								
Rule Cite(s)	30 Tex. Admin. Code § 335.10(a) and 40 Code of Federal Regulations § 262.20(a)(1)								
Violation Description	Failed to properly prepare and complete waste manifests as required. Specifically, the Respondent did not prepare and complete manifests for the waste in the tote containers.								
	Base Penalty	\$10,000							
>> Environmental, Property and Human Health Matrix									
OR	Release			Harm	Percent				
						Major	Moderate	Minor	
	Actual								
	Potential								
					0%				
>> Programmatic Matrix									
Matrix Notes	Falsification			Major	Moderate	Minor			
		x							
					10%				
	100% of the rule requirement was not met.								
	Adjustment	\$9,000							
		\$1,000							
Violation Events									
	Number of Violation Events	1	Number of violation days	18					
<i>mark only one with an x</i>	daily								
	weekly								
	monthly								
	quarterly								
	semiannual								
	annual								
	single event		x						
	Violation Base Penalty				\$1,000				
	One single event is recommended based on documentation of the violation during the July 31, 2009 investigation.								
Good Faith Efforts to Comply									
	0.0%	Reduction	\$0						
		Before NOV	NOV to EDRP/Settlement Offer						
	Extraordinary								
	Ordinary								
	N/A	x	(mark with x)						
	Notes	The Respondent does not meet the good faith criteria for this violation.							
	Violation Subtotal	\$1,000							
Economic Benefit (EB) for this violation									
Statutory Limit Test									
	Estimated EB Amount	\$105	Violation Final Penalty Total	\$998					
	This violation Final Assessed Penalty (adjusted for limits)			\$998					

Economic Benefit Worksheet

Respondent Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Req. Ent. Reference No. RN102349917
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]	\$100	2-Jun-2009	31-Jul-2009	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to prepare and complete waste manifests (\$100). The date required is the disposal date and the final date is the investigation date.

Approx. Cost of Compliance \$100

TOTAL \$105

Screening Date 18-Aug-2009 **Docket No.** 2009-1555-MLM-E **PCW**
Respondent Bisma-Zaeem, Inc. dba B-Z Mart *Policy Revision 2 (September 2002)*
Case ID No. 38426 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102349917
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

	<input type="text" value="1"/>	<input type="text" value="18"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input 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 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 Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Reg. Ent. Reference No. RN102349917
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				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	2-Jun-2009	31-Jul-2009	1.08	\$27	\$500	\$527
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct a hazardous waste determination (\$500). The date required is the disposal date and the final date is the investigation date.

Approx. Cost of Compliance

\$500

TOTAL

\$527

Screening Date 18-Aug-2009 **Docket No.** 2009-1555-MLM-E **PCW**
Respondent Bisma-Zaeem, Inc. dba B-Z Mart *Policy Revision 2 (September 2002)*
Case ID No. 38426 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102349917
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code §§ 335.2(b) and 335.6(a)
Violation Description Failed to dispose of industrial hazardous waste at an authorized facility. Failed to notify the agency of the intent to dispose of solid waste prior to beginning disposal activities. Specifically, the Respondent allowed the disposal of hazardous waste without notifying the agency prior to the disposal.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

>> Programmatic Matrix

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 18 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the July 31, 2009 investigation.

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 \$633 **Violation Final Penalty Total** \$998

This violation Final Assessed Penalty (adjusted for limits) \$998

Economic Benefit Worksheet

Respondent Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Reg. Ent. Reference No. RN102349917
Media Petroleum Storage Tank
Violation No. 8

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	2-Jun-2009	31-Jul-2009	1.08	\$27	\$500	\$527
Other (as needed)	\$100	4-Mar-2009	2-Jun-2009	1.16	\$6	\$100	\$106

Notes for AVOIDED costs

Estimated avoided cost to obtain a permit for the storage, processing, or disposal of industrial hazardous waste (\$500). The date required is the disposal date and the final date is the investigation date. Estimated avoided cost to notify the agency of the intent to dispose of solid waste (\$100). The date required is 90 days prior to the disposal date and the final date is the disposal date.

Approx. Cost of Compliance

\$600

TOTAL

\$633

Screening Date	18-Aug-2009	Docket No.	2009-1555-MLM-E	PCW	
Respondent	Bisma-Zaeem, Inc. dba B-Z Mart			<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	38426			<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No.	RN102349917				
Media [Statute]	Petroleum Storage Tank				
Enf. Coordinator	Wallace Myers				
Violation Number	9				
Rule Cite(s)	30 Tex. Admin. Code § 335.63(a) and (b)				
Violation Description	Failed to obtain an Environmental Protection Agency (EPA) identification number before storing, processing, disposing of, transporting, or offering for transportation a hazardous waste. Specifically, the Respondent failed to obtain an EPA identification number for the waste stored in the tote containers.				
	Base Penalty	\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent
		x			10%
Matrix Notes	100% of the rule requirement was not met.				
	Adjustment	\$9,000			
		\$1,000			
Violation Events					
	Number of Violation Events	1	Number of violation days	18	
	Frequency	daily			
		weekly			
		monthly			
		quarterly			
		semiannual			
		annual			
		single event	x		
<i>mark only one with an x</i>					
	Violation Base Penalty	\$1,000			
	One single event is recommended based on documentation of the violation during the July 31, 2009 investigation.				
Good Faith Efforts to Comply					
	Reduction	0.0%		\$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					
	Estimated EB Amount	\$53	Violation Final Penalty Total	\$998	
	This violation Final Assessed Penalty (adjusted for limits)			\$998	

Economic Benefit Worksheet

Respondent Bisma-Zaeem, Inc. dba B-Z Mart
Case ID No. 38426
Req. Ent. Reference No. RN102349917
Media Petroleum Storage Tank
Violation No. 9

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]	\$50	2-Jun-2009	31-Jul-2009	1.08	\$3	\$50	\$53
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to obtain an EPA identification number (\$50). The date required is the disposal date and the final date is the investigation date.

Approx. Cost of Compliance \$50

TOTAL \$53

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603065186 Bisma-Zaeem, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102349917 B-Z Mart	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		18523
Location:	500 W GARLAND ST, GRAND SALINE, TX, 75140		
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	August 18, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 18, 2004 to August 18, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Wallace Myers	Phone:	512-239-6580

Site Compliance History Components

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

	OWNOPR	Bisma-Zaeem, Inc.
--	--------	-------------------
4. If Yes, who was/were the prior owner(s)/operator(s) ?

	OWNOPR	FFP Operating Partners, L.P.
	OWNOPR	Recovery Business Funds, LLC
5. When did the change(s) in owner or operator occur?

05/18/2006	OWNOPR	FFP Operating Partners, L.P.
	OWNOPR	Recovery Business Funds, LLC
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 08/11/2009 (761686)
 - 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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BISMA-ZAEEM, INC. D/B/A
B-Z MART;
RN102349917**

**§
§
§
§
§
§**

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2009-1555-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 Bisma-Zaeem, Inc. d/b/a B-Z Mart ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by John Gamboa of the law firm Acuff & Gamboa, L.L.P., appear before the Commission and together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), four underground storage tanks ("USTs") and a convenience store located at 500 West Garland Street in Grand Saline, Van Zandt 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 and/or disposal of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEXAS HEALTH & SAFETY CODE ch. 361, 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 thirteen thousand four hundred sixty-eight dollars (\$13,468.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred seventy-eight dollars (\$378.00) of the administrative penalty. The remaining amount of thirteen thousand ninety dollars (\$13,090.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred seventy-four (\$374.00) 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 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.
9. 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.
10. 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 June 9, 2009, a TCEQ Tyler Regional Office investigator documented that Respondent violated:
 - a. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing 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 current operational status of the UST system;
 - b. 30 TEX. ADMIN. CODE § 334.50(a)(1)(A), 334.50(d)(1)(B)(ii), 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), by failing to provide a release detection method capable of detecting a release from any portion of the UST system which contains regulated substances; by failing to provide a release detection method for the USTs by failing to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and by failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day;

- c. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST system; and
 - d. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.
2. During an investigation conducted on July 31, 2009, a TCEQ Tyler Regional Office investigator documented that Respondent violated the following requirements:
 - a. 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2) by failing to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill buckets were damaged and not functioning properly and the fill pipes were not equipped with overfill prevention devices;
 - b. 30 TEX. ADMIN. CODE § 335.10(a) and 40 CODE OF FEDERAL REGULATIONS § 262.20(a)(1) by failing to properly prepare and complete waste manifests as required. Specifically, Respondent did not prepare and complete manifests for the waste in the tote containers;
 - c. 30 TEX. ADMIN. CODE § 335.62 and 40 CODE OF FEDERAL REGULATIONS § 262.11 by failing to conduct a hazardous waste determination for each solid waste generated. Specifically, Respondent did not conduct a hazardous waste determination for the waste stored in the tote containers prior to disposal;
 - d. 30 TEX. ADMIN. CODE § 335.2(b) and 335.6(a) by failing to dispose of industrial hazardous waste at an authorized facility and by failing to notify the agency of the intent to dispose of industrial hazardous waste prior to beginning disposal activities. Specifically, Respondent allowed the disposal of industrial hazardous waste without notifying the agency prior to the disposal; and
 - e. 30 TEX. ADMIN. CODE § 335.63(a) and (b) by failing to obtain an Environmental Protection Agency ("EPA") identification number before storing, processing, disposing of, transporting, or offering for transportation a hazardous waste. Specifically, Respondent failed to obtain an EPA identification number for the waste stored in the tote containers.
3. Respondent received notice of the violations on or about August 16, 2009.

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: Bisma-Zaeem, Inc. d/b/a B-Z Mart, Docket No. 2009-1555-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. Immediately upon the effective date of this Agreed Order, Respondent shall begin conducting proper inventory control procedures for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48 (Allegation 1.c.).
 - b. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Submit an amended registration to reflect the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 (Allegation 1.a.) to:

Registration and Reporting Section
Permitting & Registration Support Division, MC129
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - ii. Install and implement a release detection method for all USTs at the Facility and begin recording volume measurements and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Allegation 1.b.);
 - iii. Appropriately mark the top of each fill tube or nonremovable point in the immediate area of the fill tube of each UST with an identification number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8 (Allegation 1.d.); and
 - iv. Begin maintaining the spill and overfill prevention equipment in proper operating condition including, but not limited to, repairing the spill buckets and installing overfill prevention devices on the fill pipes, in accordance with 30 TEX. ADMIN. CODE § 334.51 (Allegation 2.a.).

- c. Within 45 days after the effective date of this Agreed Order, Respondent shall:
- i. Develop and implement a procedure for properly disposing of all hazardous waste at the Facility, including but not limited to conducting hazardous waste determinations, obtaining EPA waste identifications, and properly completing waste manifests, in accordance with 30 TEX. ADMIN. CODE §§ 335.10(a), 335.62, and 335.63(a) and (b), and 40 Code of Federal Regulations §§ 262.20(a) and 262.11 (Allegations 2.b., 2.c, 2.d., and 2.e.) and
 - ii. Develop and implement a procedure to notify the agency of the intent to manage hazardous waste at least 90 days prior to beginning future hazardous waste disposal activities, in accordance with 30 TEX. ADMIN. CODE § 335.6(a) (Allegation 2.d.).
- d. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provisions Nos. 2.a. through 2.c.ii. 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 certification 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

Michael Brashear, Waste Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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 any 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.

Sep. 6. 2011 1:58PM

No. 7649 P. 8

Bisma-Zaeem, Inc. d/b/a B-Z Mart
Pocket No. 2009-1555-MLM-E
Page 7

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]
For the Executive Director

10/12/2011
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 Bisma-Zaeem, Inc. d/b/a B-Z Mart, 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.

[Handwritten Signature]
Signature:

9-6-2011
Date

SHAIKZAD ZULIFGAR
Name (Printed or typed)
Authorized representative of
Bisma-Zaeem, Inc. d/b/a B-Z Mart,

Pre
Title

Signature

Date