

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0102-PST-E

RN101664001

CASE NO. 39000

RESPONDENT NAME: ASAD RIZVI

ORDER TYPE:		
<input type="checkbox"/> AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 12550 State Highway 30, College Station, Brazos, County</p> <p>TYPE OF OPERATION: Former convenience store with three inactive underground storage tanks</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A</p> <p>OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that USTs may be improperly abandoned at the facility. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired December 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Steven M. Fishburn, Litigation Division, MC 175, (512) 239-3400 Lena Roberts, Litigation Division, MC 175, (512) 239-3400 TCEQ Enforcement Coordinator: Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577 TCEQ Regional Contact: Frank Burleson, Waco Regional Office, MC R-R9, (254) 761-3001 Respondent: Asad Rizvi, 12511 Amado Drive, Houston, Texas 77065-2302 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint: August, 8, 2003</p> <p>Date of Investigation: December 8, 2009</p> <p>Date of NOE: December 18, 2009</p> <p>Background Facts: The EDPRP was filed on September 13, 2010, and mailed to Respondent via first class mail and certified mail, return receipt requested. According to the return receipt "green card," Respondent received the EDPRP on September 15, 2010. Respondent failed to file an answer and failed to request a hearing.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation demonstrating compliance with the technical requirements. Respondent's delivery certificate expired in 2004.</p> <p>PST:</p> <ol style="list-style-type: none"> 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 [30 TEX. ADMIN. CODE § 334.7(d)(3) and 334.54(e)(2)]. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE §§ 334.49(c)(2)(C) and 334.54(c)(1), and TEX. WATER CODE § 26.3475(d)]. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE §§ 334.49(c)(4)(C) and 334.54(c)(1), and TEX. WATER CODE § 26.3475(d)]. 	<p>Total Assessed: \$6,026</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$6,026</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed administrative penalty but will be required to do so within 30 days under the terms of this Order.</p> <p>Compliance History Classifications: <i>Person/CN</i> – Average <i>Site/RN</i> – Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately begin maintaining all UST records (violation no. 5). Within 30 days: <ol style="list-style-type: none"> Begin inspecting the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly (violation no. 2); Begin inspecting and testing the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years (violation no. 3); and Begin maintaining all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons (violation no. 4); or Permanently remove the UST system from service. Within 45 days, submit an amended registration to reflect the current operational status of the UST system and the owners' correct contact information (violation no. 1). Within 60 days, submit written certification demonstrating compliance.

RESPONDENT NAME: ASAD RIZVI
DOCKET NO. 2010-0102-PST-E

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| <p>4. Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)(2)].</p> <p>5. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(1)(B)].</p> | | |
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-Jan-2010			
	PCW	14-Jul-2010	Screening	10-Jan-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Azad Rizvi				
Reg. Ent. Ref. No.	RN101664001				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39000	No. of Violations	3		
Docket No.	2010-0102-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Rajesh Acharya		
		EC's Team	Enforcement Team 6		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

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

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

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$225
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Notes	Enhancement for one NOV with same or similar violations.
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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	\$1,332	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,000	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,725
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OTHER FACTORS AS JUSTICE MAY REQUIRE	27.5%	Adjustment	\$1,301
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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 no. 2.
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Final Penalty Amount	\$6,026
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,026
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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	\$6,026
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Screening Date 10-Jan-2010

Docket No. 2010-0102-PST-E

PCW

Respondent Azad Rizvi

Policy Revision 2 (September 2002)

Case ID No. 39000

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101664001

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written 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 NOV with same or similar violations.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 10-Jan-2010 **Docket No.** 2010-0102-PST-E **PCW**
Respondent Azad Rizvi *Policy Revision 2 (September 2002)*
Case ID No. 39000 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101664001
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>
<input type="text" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**
This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Azad Rizvi
Case ID No. 39000
Reg. Ent. Reference No. RN101664001
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	8-Dec-2009	8-Aug-2010	0.67	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to prepare and submit an updated UST registration form. Date Required is the record review date. Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

Screening Date 10-Jan-2010 **Docket No.** 2010-0102-PST-E **PCW**
Respondent Azad Rizvi *Policy Revision 2 (September 2002)*
Case ID No. 39000 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101664001
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 334.49(c)(2)(C), 334.49(c)(4)(C), 334.54(b)(2), and 334.54(c)(1) and Tex. Water Code § 26.3475(d)
Violation Description Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Also, failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential	x		25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	Human health or the environment could be exposed to pollutants which may exceed levels that are protective of human health and environmental receptors as a result of the violation.				0%
	Adjustment				\$7,500

\$2,500

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 \$2,500

One quarterly event is recommended from the December 8, 2009 record review date to the screening date of January 10, 2010.

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		
<input type="text" value="\$2,500"/>		

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 Azad Rizvi
Case ID No. 39000
Reg. Ent. Reference No. RN101664001
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$300	8-Dec-2009	8-Aug-2010	0.67	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to properly secure all USTs. Date Required is the investigation date. Final Date is the estimated compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	8-Oct-2009	8-Dec-2009	1.08	\$5	\$100	\$105
Other (as needed)	\$1,000	8-Dec-2006	8-Dec-2009	3.92	\$196	\$1,000	\$1,196

Notes for AVOIDED costs

Avoided cost for conducting bimonthly inspection (\$100) and completing triennial test (\$1,000). Dates required are 60 days before the record review and three years before the record review respectively. Final Date is the record review date.

Approx. Cost of Compliance

\$1,400

TOTAL

\$1,311

Screening Date	10-Jan-2010	Docket No.	2010-0102-PST-E	PCW
Respondent	Azad Rizvi	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	39000	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No.	RN101664001			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Rajesh Acharya			
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)(1)(B)			
Violation Description	Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.			
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 December 12, 2009 record review.

Good Faith Efforts to Comply Reduction \$0

Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer
	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 Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Azad Rizvi
Case ID No. 39000
Reg. Ent. Reference No. RN101664001
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	8-Dec-2009	12-Aug-2010	0.68	\$17	n/a	\$17
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. Date Required is the record review date. Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$17

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602530982 Rizvi, Asad	Classification: AVERAGE	Rating: 1.67
Regulated Entity:	RN101664001 GREEN ACRES GENERAL STORE	Classification: AVERAGE	Site Rating: 1.67
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	41519
Location:	12550 STATE HIGHWAY 30, COLLEGE STATION, TX, 77845		
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	January 11, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 11, 2005 to January 11, 2010		

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

Name: Rajesh Acharya Phone: (512) 239-0577

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/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	05/26/2009	(745087)
2	07/30/2009	(763187)
3	12/22/2009	(784951)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/04/2009		(745087)
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 334, SubChapter C 334.54(b)(2)	
Description:	Failure to properly secure all underground storage tanks (USTs) to prevent access, tampering or vandalism by unauthorized persons.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 334, SubChapter A 334.7(d)(3) 30 TAC Chapter 334, SubChapter C 334.54(e)(2)	
Description:	Failure to amend, update, or change registration as required by the TCEQ.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 334, SubChapter C 334.49(c)(2)(C) 30 TAC Chapter 334, SubChapter C 334.54(c)(1)	
Description:	Failure to inspect cathodic protection system at least once every 60 days.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.49(c)(4)(C) 30 TAC Chapter 334, SubChapter C 334.54(c)(1)	

Description: Failure to have cathodic protection system inspected and tested triennially.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(B)
Description: Failure to have records immediately available upon request of agency personnel.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ASAD RIZVI;
RN101664001**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-0102-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Asad Rizvi ("Mr. Rizvi").

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

FINDINGS OF FACT

1. Mr. Rizvi owns a former convenience store with three (3) inactive underground storage tanks ("USTs") located at 12550 State Highway 30 in College Station, Brazos County, Texas (the "Facility").
2. 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 substance as defined in the rules of the Commission.
3. During a record review conducted on December 8, 2009, a TCEQ Waco Regional Office investigator documented that Mr. Rizvi:
 - 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 current operational status of the UST system and the owner's correct contact information;
 - b. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly;
 - c. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years;
 - d. Failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured

manner to prevent access, tampering, or vandalism by unauthorized persons;
and

- e. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.
4. Mr. Rizvi received notice of the violations on or about December 23, 2009.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Asad Rizvi" (the "EDPRP") in the TCEQ Chief Clerk's office on September 13, 2010.
6. By letter dated September 13, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Rizvi with notice of the EDPRP. According to the return receipt "green card," Mr. Rizvi received notice of the EDPRP on September 15, 2010, as evidenced by the signature on the card and information printed out from the United States Postal Service's tracking database.
7. More than 20 days have elapsed since Mr. Rizvi received notice of the EDPRP, provided by the Executive Director. Mr. Rizvi failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Mr. Rizvi is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Rizvi 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, in violation of 30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.54(e)(2).
3. As evidenced by Finding of Fact No. 3.b., Mr. Rizvi failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE §§ 334.49(c)(2)(C) and 334.54(c)(1), and TEX. WATER CODE § 26.3475(d).
4. As evidenced by Finding of Fact No. 3.c., Mr. Rizvi failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE §§ 334.49(c)(4)(C) and 334.54(c)(1) and TEX. WATER CODE § 26.3475(d).
5. As evidenced by Finding of Fact No. 3.d., Mr. Rizvi failed to maintain all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2).

6. As evidenced by Finding of Fact No. 3.e., Mr. Rizvi failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(1)(B).
7. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Mr. Rizvi with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 7, Mr. Rizvi failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Rizvi and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Rizvi for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of six thousand twenty-six dollars (\$6,026.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Rizvi is assessed an administrative penalty in the amount of six thousand twenty-six dollars (\$6,026.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Mr. Rizvi's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Asad Rizvi; Docket No. 2010-0102-PST-E" to:

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

3. Mr. Rizvi shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Mr. Rizvi shall begin maintaining all UST records (Conclusion of Law No. 6), in accordance with 30 TEX. ADMIN. CODE § 334.10;
 - b. Within 30 days after the effective date of this Order, Mr. Rizvi shall:
 - i. Begin inspecting the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly (Conclusion of Law No. 3), in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - ii. Begin inspecting and testing the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years (Conclusion of Law No. 4), in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - iii. Begin maintaining all piping, pumps, manways, tank access points and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons (Conclusion of Law No. 5), in accordance with 30 TEX. ADMIN. CODE § 334.54; or
 - iv. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
 - c. Within 45 days after the effective date of this Order, Mr. Rizvi shall submit an amended registration to reflect the current operational status of the UST system and the owners' correct contact information (Conclusion of Law No. 2), in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 138
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087
 - d. Within 60 days after the effective date of this Order, Mr. Rizvi shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

false information, including the possibility of fine and imprisonment for knowing violations.”

Mr. Rizvi shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

with a copy to:

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

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

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEVEN M. FISHBURN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Asad Rizvi" (the "EDPRP") was filed with the Office of the Chief Clerk on September 13, 2010.

The EDPRP was mailed to Mr. Rizvi at his last known address on September 13, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card" and the United States Postal Service tracking database, Mr. Rizvi received notice of the EDPRP on September 15, 2010, as evidenced by the signature on the card.

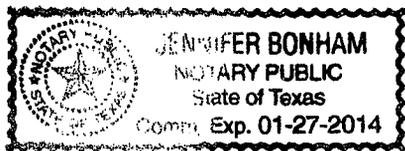
More than 20 days have elapsed since Mr. Rizvi received notice of the EDPRP. Mr. Rizvi failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



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

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

Given under my hand and seal of office this 14th day of October, A.D., 2010.



Jennifer Bonham
Notary Signature