EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2010-0227-PST-E RN101831063 and RN101446888 CASE NO. 39140
RESPONDENT NAME: ROGELIO SAENZ D/B/A/ ROYS 1 AND ROYS 2 AND ODILIA SAENZ D/B/A ROYS 1 AND ROYS 2

ORDER TYPE:		
_X_ **AGREED ORDER**	___ **FINDINGS AGREED ORDER**	___ **FINDINGS ORDER FOLLOWING SOAH HEARING**
___ **FINDINGS DEFAULT ORDER**	___ **SHUTDOWN ORDER**	___ **IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER**
___ **AMENDED ORDER**	___ **EMERGENCY ORDER**	
CASE TYPE:		
___ **AIR**	___ **MULTI-MEDIA** (check all that apply)	___ **INDUSTRIAL HAZARDOUS WASTE**
___ **PUBLIC WATER SUPPLY**	_X_ **PETROLEUM STORAGE TANKS**	___ **OCCUPATIONAL CERTIFICATION**
___ **WATER QUALITY**	___ **SEWAGE SLUDGE**	___ **UNDERGROUND INJECTION CONTROL**
___ **MUNICIPAL SOLID WASTE**	___ **RADIOACTIVE WASTE**	___ **DRY CLEANER REGISTRATION**

SITE WHERE VIOLATIONS OCCURRED: 429 East Santa Gertrudis Street, Kingsville, Kleburg County
1230 East Santa Gertrudis Street, Kingsville, Kleburg County

TYPE OF OPERATION: convenience stores with retail sales of gasoline

SMALL BUSINESS: _X_ Yes ___ No ___ N/A

OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. There is no record of additional pending enforcement action regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondents expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired April 18, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Peipey Tang, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400
TCEQ Enforcement Coordinator: Danielle Porras, Waste Enforcement Section, MC R-12, (713) 767-3682
TCEQ Regional Contact: Brad Genzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106
Respondent: Rogelio Saenz and Odilia Saenz, 198 West Farm-to-Market Road 1355, Kingsville, Texas 78363
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint _X_ Routine ___ Enforcement Follow-up ___ Records Review **Date of Complaint:** N/A **Date of Investigation:** December 8, 2009 **Dates of NOEs:** February 2, 2010 February 3, 2010 **Background Facts:** The EDPRP was filed on June 21, 2010. Respondents filed an answer and the case was referred to SOAH. The Agreed Order was signed on February 15, 2011. **Current Compliance Status:** Respondent submitted documentation demonstrating compliance with violation nos. 2, 3, 4, 6, 7, 9, 10, and 11. Respondents' delivery certificate expires April, 2011. **PST:** Facility 1: 1. Failed to maintain all UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)]. 2. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vi) and (c)(5)(B)(ii)]. 3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)]. 4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].	**Total Assessed:** $26,208 **Total Deferred:** $0 ___ Expedited Order ___ Financial Inability to Pay **Total Paid to General Revenue:** $26,208 Respondents paid the administrative penalty in full. **Compliance History Classifications:** *Person/CN* – Average (Both Respondents) *Site/RN* – Average (Both Sites) **Major Source:** ___ Yes _X_ No (Both Sites) **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that Respondents performed the following corrective actions: Facility 1: 1. Obtained proper financial assurance coverage on December 23, 2009 (violation 4); 2. Conducted the required annual line leak detector tests on January 20, 2010, with passing results (violation 6); 3. Conducted the required annual piping tightness test on January 20, 2010 (violation 6); 4. Implemented proper release detection for all USTs and began conducting daily volume measurement and monthly reconciliation of detailed inventory control records on April 28, 2010 (violations 6 and 7); and 5. Obtained a valid delivery certificate with an expiration date of April 2011 (violations 2 and 3). Facility 2: 1. Emptied and locked the three out-of-service USTs at Facility 2 on January 17, 2010 (violations 10 and 11); and 2. Updated the UST registration to reflect the correct operators, facility name, and contact information on February 4, 2010 (violation 9). **Ordering Provisions:** Respondent shall undertake the following technical requirements: 1. Within 30 days: a. At Facility 1: i. Begin maintaining all UST records; ii. Begin conducting bimonthly inspections of the cathodic protection systems to ensure that the rectifier and other system components are functioning as designed, and conduct the required triennial testing of the cathodic protection systems; and

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
5. 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; and 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)(2)(C) and (c)(4)(C) and TEX. WATER CODE § 26.3475(c)(1)]. 6. Failed to provide proper release detection for the pressurized piping associated with the USTs; failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of detailed inventory control records at least once each month, 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 conduct 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(b), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I), and TEX. WATER CODE § 26.3475(a) and (c)(1)]. 7. Failed to conduct effective manual and automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)]. 8. Failing to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight [30 TEX. ADMIN. CODE § 334.42(i)]. <u>Facility 2:</u> 9. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)]. 10. Failed to provide adequate corrosion protection for a temporarily-out-of-service UST system and failed to monitor the UST system which contained a regulated substance for releases [30 TEX. ADMIN. CODE § 334.54(c)(1) and (c)(2) and TEX. WATER CODE § 26.3475(c)(1)].		iii. Begin conducting bimonthly inspections of all sumps, manways, and overfill containers or catchment basins. b. At Facility 2, provide adequate corrosion protection for the temporarily-out-of-service UST system. 2. Within 45 days, submit written certification demonstrating compliance.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
11. Failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)(2)].		

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	8-Feb-2010				
PCW	24-Jan-2011	Screening	9-Feb-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2		
Reg. Ent. Ref. No.	RN101831063		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39140	No. of Violations	8
Docket No.	2010-0227-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		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* **$17,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement *Subtotals 2, 3, & 7* **$0**

Notes: No adjustment due to compliance history.

Culpability No **0.0%** Enhancement *Subtotal 4* **$0**

Notes: The Respondents do not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **$500**

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

Total EB Amounts $4,501
Approx. Cost of Compliance $6,500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$16,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **26.9%** *Adjustment* **$4,433**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs of compliance associated with violation nos. 2, 4, 5, 6, and 8.

Final Penalty Amount **$20,933**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$20,933**

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

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **$20,933**

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date	9-Feb-2010	**Docket No.** 2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys		*Policy Revision 2 (September 2002)*
Case ID No.	39140		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Danielle Porras		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Violation Description Failed to maintain all 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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 63 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.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $21

Statutory Limit Test

Violation Final Penalty Total $1,269

This violation Final Assessed Penalty (adjusted for limits) $1,269

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101831063
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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-Oct-2010	0.84	$21	n/a	$21
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. 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 $21

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vi) and (c)(5)(B)(ii)

Violation Description Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the prior delivery certificate expired on June 30, 2005.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirment was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 5

1686 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $5,000

Five annual events are recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $5,000

Economic Benefit (EB) for this violation

Estimated EB Amount $505

Statutory Limit Test

Violation Final Penalty Total $6,343

This violation Final Assessed Penalty (adjusted for limits) $6,343

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101831063
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	1-Jun-2009	12-Oct-2010	1.36	$7	n/a	$7
Notes for DELAYED costs	Estimated cost to renew a delivery certificate by submitting a properly completed UST Registration and Self-Certification form. The Date Required is the beginning of the current year requiring a delivery certificate 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]	$400	31-May-2005	31-May-2009	4.92	$98	$400	$498
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost ($100 per full year) to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate. Date Required is 30 days prior to the expiration date of the delivery certificate and the Final Date is the last full year date.						

Approx. Cost of Compliance $500

TOTAL $505

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondents received at least one delivery of fuel without a delivery certificate.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,500

$500

Violation Events

Number of Violation Events 1 | 1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $500

One single event is recommended for accepting one fuel delivery.

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $500

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $634

This violation Final Assessed Penalty (adjusted for limits) $634

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101831063
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Economic benefit included in violation no. 2.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $0

TOTAL $0

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 2

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,000

Two single events (one per tank) are recommended.

Good Faith Efforts to Comply

25.0% Reduction — $500

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

Notes: The Respondents came into compliance on December 23, 2009, prior to the NOE dated February 3, 2010

Violation Subtotal $1,500

Economic Benefit (EB) for this violation

Estimated EB Amount $1,427

Statutory Limit Test

Violation Final Penalty Total $1,903

This violation Final Assessed Penalty (adjusted for limits) $1,903

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101831063
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	$1,300	8-Dec-2008	23-Dec-2009	1.96	$127	$1,300	$1,427
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to provide financial assurance for two petroleum USTs ($650 per tank). The Date Required is one year prior to the investigation date and the Final Date is the date of compliance.						

Approx. Cost of Compliance $1,300

TOTAL $1,427

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4)(C) and Tex. Water Code § 26.3475(c)(1)

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.

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 — 63 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 from the December 8, 2009 investigation to the February 9, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $1,301

Statutory Limit Test

Violation Final Penalty Total $3,172

This violation Final Assessed Penalty (adjusted for limits) $3,172

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101831063
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	9-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	Estimated avoided cost for conducting a bimonthly inspection ($100) and for completing the triennial test ($1,000). The Dates Required are 60 days before the investigation date and three years before the investigation date respectively and the Final Date is the date of the investigation.						

Approx. Cost of Compliance $1,100

TOTAL $1,301

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description Failed to provide proper release detection for the pressurized piping associated with the USTs. Specifically, the Respondents did not conduct the annual piping tightness test. Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of detailed inventory control records at least once each month, 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 conduct 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 | 63 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 from the December 8, 2009 investigation to the February 9, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $1,131

Statutory Limit Test

Violation Final Penalty Total $3,172

This violation Final Assessed Penalty (adjusted for limits) $3,172

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101831063
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$1,500	8-Dec-2009	28-Apr-2010	0.39	$29	n/a	$29
Notes for DELAYED costs	Estimated cost to provide release detection for the USTs including recording daily volume measurement and monthly reconciliation of inventory control records. The Date Required is the investigation date and the Final Date is the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$1,000	8-Dec-2008	20-Jan-2010	2.04	$102	$1,000	$1,102
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost of conducting line leak detector and piping tightness tests. The Date Required is one year prior to the investigation date and the Final Date is the compliance date.						

Approx. Cost of Compliance $2,500

TOTAL $1,131

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)

Violation Description Failed to conduct effective manual and automatic inventory control procedures for the UST system.

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

1 | 63 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 from the December 8, 2009 investigation to the February 9, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $10

Statutory Limit Test

Violation Final Penalty Total $3,172

This violation Final Assessed Penalty (adjusted for limits) $3,172

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101831063
Media Petroleum Storage Tank
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	28-Apr-2010	0.39	$10	n/a	$10
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 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 $10

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101831063			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 334.42(i)

Violation Description Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

1 | 63 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the December 8, 2009 investigation to the February 9, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $105

Statutory Limit Test

Violation Final Penalty Total $1,269

This violation Final Assessed Penalty (adjusted for limits) $1,269

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101831063
Media Petroleum Storage Tank
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	9-Oct-2009	8-Dec-2009	1.08	$5	$100	$105
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. The Date Required is 60 days before the investigation date and Final Date is the date of the investigation.						

Approx. Cost of Compliance $100

TOTAL $105

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	8-Feb-2010				
PCW	24-Jan-2011	Screening	9-Feb-2010	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2		
Reg. Ent. Ref. No.	RN101446888		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39140	No. of Violations	3
Docket No.	2010-0227-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)		*Subtotal 1*	$6,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	0.0% Enhancement	*Subtotals 2, 3, & 7*	$0
Notes	No adjustment due to compliance history.		
Culpability	No; 0.0% Enhancement	*Subtotal 4*	$0
Notes	The Respondents do not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		*Subtotal 5*	$725
Economic Benefit	0.0% Enhancement*	*Subtotal 6*	$0
Total EB Amounts	$131	**Capped at the Total EB $ Amount*	
Approx. Cost of Compliance	$3,100		
SUM OF SUBTOTALS 1-7		*Final Subtotal*	$5,275
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	*Adjustment*	
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes			
		Final Penalty Amount	$5,275
STATUTORY LIMIT ADJUSTMENT		*Final Assessed Penalty*	$5,275
DEFERRAL	0.0% Reduction	*Adjustment*	$0
Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*			
Notes	Deferral not offered for non-expedited settlement.		
PAYABLE PENALTY			$5,275

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101446888			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date	9-Feb-2010	**Docket No.** 2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys		*Policy Revision 2 (September 2002)*
Case ID No.	39140		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101446888		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Danielle Porras		

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 correct operator's name, facility name and contact information.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 63 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.

Good Faith Efforts to Comply

10.0% Reduction — $100

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

Notes: The Respondent came into complaince on February 4, 2010, after the NOE dated February 2, 2010.

Violation Subtotal $900

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $900

This violation Final Assessed Penalty (adjusted for limits) $900

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101446888
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	4-Feb-2010	0.16	$1	n/a	$1

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 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 $1

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101446888			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.54(c)(1) and (2) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to provide adequate corrosion protection for a temporarily-out-of-service UST system. Also, failed to monitor the UST system which contained a regulated substance for releases. Specifically, the USTs contained approximately 12.7 to 20.3 centimeters of regulated substance.

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

63 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 from the December 8, 2009 investigation to the February 9, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

Notes: The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $127

Statutory Limit Test

Violation Final Penalty Total $2,500

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

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101446888
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$2,500	8-Dec-2009	14-Dec-2010	1.02	$127	n/a	$127

Notes for DELAYED costs: Estimated cost to monitor and provide corrosion protection to the UST system. 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 $2,500

TOTAL $127

Screening Date	9-Feb-2010	**Docket No.**	2010-0227-PST-E	**PCW**
Respondent	Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1			*Policy Revision 2 (September 2002)*
Case ID No.	39140			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101446888			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.54(b)(2)

Violation Description Failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons.

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 | 63 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 from the December 8, 2009 investigation to the February 9, 2010 screening date.

Good Faith Efforts to Comply

25.0% Reduction — $625

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

Notes: The Respondent came into compliance on January 17, 2010, prior to the NOE dated February 2, 2010.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $1,875

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

Economic Benefit Worksheet

Respondent Rogelio Saenz dba Roys 1 and Roys 2 and Odilia Saenz dba Roys 1 and Roys 2
Case ID No. 39140
Reg. Ent. Reference No. RN101446888
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$500	8-Dec-2009	17-Jan-2010	0.11	$3	n/a	$3
Notes for DELAYED costs	Estimated cost to secure the UST system. The Date Required is the date of the investigation and the Final Date is the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $500

TOTAL $3

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602943532	Saenz, Rogelio	Classification:Average	Rating: 3.01
Regulated Entity:	RN101831063	Roys 1	Classification:Average By Default	Site Rating: 3.01

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 30795

Location: 429 E SANTA GERTRUDIS ST, KINGSVILLE, TX, 78363

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 10, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 10, 2005 to February 10, 2010

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

Name: Danielle Porras Phone: (512) 239-2602

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 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 02/03/2010 (553795)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603627852	Saenz, Odilia	Classification:Average	Rating: 3.01
Regulated Entity:	RN101831063	Roys 1	Classification:Average By Default	Site Rating: 3.01

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 30795

Location: 429 E SANTA GERTRUDIS ST, KINGSVILLE, TX, 78363

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 10, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 10, 2005 to February 10, 2010

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

Name: Danielle Porras Phone: (512) 239-2602

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 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 02/03/2010 (553795)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602943532	Saenz, Rogelio	Classification:Average	Rating: 3.01
Regulated Entity:	RN101446888	Roys 2	Classification:Average By Default	Site Rating: 3.01

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 30812

Location: 1230 E SANTA GERTRUDIS ST, KINGSVILLE, TX, 78363

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 10, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 10, 2005 to February 10, 2010

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

Name: Danielle Porras Phone: (512) 239-2602

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 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 02/02/2010 (784684)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603627852	Saenz, Odilia	Classification:Average	Rating: 3.01
Regulated Entity:	RN101446888	Roys 2	Classification:Average By Default	Site Rating: 3.01

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 30812

Location: 1230 E SANTA GERTRUDIS ST, KINGSVILLE, TX, 78363

TCEQ Region: REGION 14 - CORPUS CHRISTI

Date Compliance History Prepared: February 10, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 10, 2005 to February 10, 2010

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

Name: Danielle Porras Phone: (512) 239-2602

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 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 02/02/2010 (784684)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	**§**	
ENFORCEMENT ACTION	**§**	**BEFORE THE**
CONCERNING	**§**	
ROGELIO SAENZ D/B/A ROYS 1	**§**	
AND ROYS 2 AND ODILIA SAENZ	**§**	**TEXAS COMMISSION ON**
D/B/A ROYS 1 AND ROYS 2;	**§**	
RN101831063	**§**	
RN101446888	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-0227-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Rogelio Saenz d/b/a/ Roys 1 and Roys 2 and Odilia Saenz d/b/a Roys 1 and Roys 2 (collectively referred to as "Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents appear before the Commission and together stipulate that:

1. Respondents own and operate, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), three underground storage tanks ("USTs") and a convenience store with retail sales of gasoline located at 429 East Santa Gertrudis Street in Kingsville, Kleburg County, Texas ("Facility 1" or "Roys 1"). Respondents own and operate three underground storage tanks and a convenience store with retail sales of gasoline located at 1230 East Santa Gertrudis Street in Kingsville, Kleburg County, Texas ("Facility 2" or "Roys 2"). The USTs at Facility 1 and Facility 2 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.

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 ch. 26 and TCEQ rules.

3. The Executive Director and Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondents are 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 Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of twenty-six thousand two hundred eight dollars ($26,208.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondents paid twenty-six thousand two hundred eight dollars ($26,208.00) of the administrative penalty.

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 Respondents agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.

8. The Executive Director recognizes that Respondents implemented the following corrective measures:

   a. At Facility 1:

      i. Obtained proper financial assurance coverage on December 23, 2009 (Allegation No. 1.d.);

      ii. Conducted the required annual line leak detector tests on January 20, 2010, with passing results (Allegation No. 1.f.);

      iii. Conducted the required annual piping tightness test on January 20, 2010 (Allegation No. 1.f.);

      iv. Implemented proper release detection for all USTs and began conducting daily volume measurement and monthly reconciliation of detailed inventory control records on April 28, 2010 (Allegation Nos. 1.f. and 1.g.); and

      v. Obtained a valid delivery certificate with an expiration date of April 2011 (Allegation Nos. 1.b. and 1.c.).

   b. At Facility 2:

      i. Emptied and locked the three out-of-service USTs on January 17, 2010 (Allegation No. 2.c.); and

      ii. Updated the UST registration to reflect the correct operators, facility name, and contact information on February 4, 2010 (Allegation No. 2.a.).

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted at Facility 1 on December 8, 2009, a TCEQ Corpus Christi Regional Office investigator documented that Respondents violated:

   a. 30 TEX. ADMIN. CODE § 334.10(b), by failing to maintain all UST records and make them immediately available for inspection upon request by agency personnel;

   b. 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vi) and (c)(5)(B)(ii), by failing to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the prior delivery certificate expired on June 30, 2005;

   c. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, Respondents received at least one delivery of fuel without a delivery certificate;

   d. 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs;

   e. 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4)(C) and TEX. WATER CODE § 26.3475(c)(1), by failing 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; and by failing 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;

   f. 30 TEX. ADMIN. CODE § 334.50(b), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I), and TEX. WATER CODE § 26.3475(a) and (c)(1), by failing to provide proper release detection for the pressurized piping associated with the USTs. Specifically, Respondents did not conduct the annual piping tightness test. Also, by failing to test the line leak detectors at least once per year for performance and operational reliability; failing to conduct reconciliation of detailed inventory control records at least once each month, 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 failing to conduct inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day;

   g. 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct effective manual and automatic inventory control procedures for the UST system; and

   h. 30 TEX. ADMIN. CODE § 334.42(i), by failing to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at

least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight.

2. During an investigation conducted at Facility 2 on December 8, 2009, a TCEQ Corpus Christi Regional investigator documented that Respondents 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 correct operator's name, facility name and contact information;

   b. 30 TEX. ADMIN. CODE § 334.54(c)(1) and (c)(2) and TEX. WATER CODE § 26.3475(c)(1), by failing to provide adequate corrosion protection for a temporarily-out-of-service UST system and failing to monitor the UST system which contained a regulated substance for releases. Specifically, the USTs contained approximately 12.7 to 20.3 centimeters of regulated substance; and

   c. 30 TEX. ADMIN. CODE § 334.54(b)(2), by failing to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons.

3. Respondents received notice of the violations alleged in Section II, paragraph 1 on or about February 8, 2010. Respondents received notice of the violations alleged in Section II, paragraph 2 on or about February 7, 2010.

III. DENIALS

Respondents generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondents pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondents' 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: Rogelio Saenz d/b/a/ Roys 1 and Roys 2 and Odilia Saenz d/b/a Roys 1 and Roys 2, Docket No. 2010-0227-PST-E" to:

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

2. Respondents shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order, Respondents shall:

i. At Facility 1:

(A) Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10 (Allegation No. 1.a.);

(B) Begin conducting bimonthly inspections of the cathodic protection systems to ensure that the rectifier and other system components are functioning as designed, and conduct the required triennial testing of the cathodic protection systems, in accordance with 30 TEX. ADMIN. CODE § 334.49 (Allegation No. 1.e.);

(C) Begin conducting bimonthly inspections of all sumps, manways, and overfill containers or catchment basins, in accordance with 30 TEX. ADMIN. CODE § 334.42 (Allegation No. 1.h.); and

ii. At Facility 2, provide adequate corrosion protection for the temporarily-out-of-service UST system, in accordance with 30 TEX. ADMIN. CODE § 334.49 (Allegation No. 2.b.).

b. Within 45 days after the effective date of this Agreed Order, Respondents shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted 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:

Brad Genzer, Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

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 Respondents. Respondents are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility 1 and Facility 2 operations referenced in this Agreed Order.

5. If Respondents fail 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, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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 Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive

Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

3/16/2011
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 Rogelio Saenz d/b/a/ Roys 1 and Roys 2 and Odilia Saenz d/b/a Roys 1 and Roys 2, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Signature – Rogelio Saenz

2-15-2011
Date

Signature – Odilia Saenz

2-15-2011
Date