

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1630-PST-E **TCEQ ID:** RN101185718 **CASE NO.:** 40496  
**RESPONDENT NAME:** IBI BUSINESS, INC. dba Pecan Creek

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 166o AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input 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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Pecan Creek, 4749 Farm-to-Market Road 723, Richmond, Fort Bend County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 4, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Wallace Myers, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6580; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Barkat Maredia, President, IBI BUSINESS, INC. dba Pecan Creek, 4749 Farm-to-Market Road 723, Richmond, Texas 77406  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 1, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 17, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failed to provide proper corrosion protection for the underground storage tank ("UST") system. Specifically, there was no electrical power being supplied to the impressed current system [30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d)].</p> <p>2) Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the Respondent was not conducting the required statistical inventory reconciliation ("SIR") analysis [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>4) Failed to conduct reconciliation of inventory control at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failed to maintain the Stage II vapor</p>	<p><b>Total Assessed:</b> \$8,678</p> <p><b>Total Deferred:</b> \$1,735  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$223 (remaining \$6,720 due in 35 monthly payments of \$192 each)</p> <p><b>Compliance History Classifications:</b>                      Person/CN - Average                      Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Successfully tested the line leak detectors for performance and operational reliability on July 14, 2010;</p> <p>b. Replaced the drop tubes for the supreme, unleaded, and unleaded plus tanks on August 3, 2010; and</p> <p>c. Successfully conducted the required annual and triennial testing of the Stage II equipment on August 10, 2010.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Install and implement a corrosion protection system for all USTs at the Station;</p> <p>ii. Install and implement a release detection method, including but not limited to conducting SIR, for all USTs at the Station; and</p> <p>iii. Begin conducting reconciliation of inventory control at least once a month.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through a.iii.</p>

<p>recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the drop tubes for the supreme, unleaded, and unleaded plus tanks were found to be five, sixty-five, and fourteen inches too short, respectively [30 TEX. ADMIN. CODE § 115.242(3)(G) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>6) Failed to verify proper operation of the Stage II equipment at least once every 12 months and vapor space manifolding and dynamic back-pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>		
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Additional ID No(s): PST 16555



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	20-Sep-2010	<b>Screening</b>	21-Sep-2010	<b>EPA Due</b>	
	<b>PCW</b>	30-Sep-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	IBI BUSINESS, INC. dba Pecan Creek		
<b>Reg. Ent. Ref. No.</b>	RN101185718		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40496	<b>No. of Violations</b>	4
<b>Docket No.</b>	2010-1630-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Wallace Myers
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$8,500</b>
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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.

<b>Compliance History</b>	2.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$170</b>
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<b>Notes</b>	Enhancement for one NOV with dissimilar violations.
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<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$875</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$1,063	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,850	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$7,795</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	11.3%	<b>Adjustment</b>	<b>\$883</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided cost of compliance associated with violation nos. 2 and 4.
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<b>Final Penalty Amount</b>	<b>\$8,678</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$8,678</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$1,735</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	<b>\$6,943</b>
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Screening Date 21-Sep-2010

Docket No. 2010-1630-PST-E

PCW

Respondent IBI BUSINESS, INC. dba Pecan Creek

Policy Revision 2 (September 2002)

Case ID No. 40496

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101185718

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

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

Screening Date 21-Sep-2010

Docket No. 2010-1630-PST-E

PCW

Respondent IBI BUSINESS, INC. dba Pecan Creek

Policy Revision 2 (September 2002)

Case ID No. 40496

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101185718

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide proper corrosion protection for the underground storage tank ("UST") system. Specifically, there was no electrical power being supplied to the impressed current system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: 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 Number of violation days 82

Table for frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the July 1, 2010 investigation to the September 21, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$2,839

This violation Final Assessed Penalty (adjusted for limits) \$2,839

## Economic Benefit Worksheet

**Respondent** IBI BUSINESS, INC. dba Pecan Creek  
**Case ID No.** 40496  
**Reg. Ent. Reference No.** RN101185718  
**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	\$1,500	1-Jul-2010	21-Jun-2011	0.97	\$5	\$97	\$102
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide corrosion protection for all components of 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

\$1,500

**TOTAL**

\$102

Screening Date 21-Sep-2010

Docket No. 2010-1630-PST-E

PCW

Respondent IBI BUSINESS, INC. dba Pecan Creek

Policy Revision 2 (September 2002)

Case ID No. 40496

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101185718

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 2

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

Violation Description

Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the Respondent was not conducting the required statistical inventory reconciliation analysis. Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of inventory control at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	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

82 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the July 1, 2010 investigation to the September 21, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$402

Violation Final Penalty Total \$2,839

This violation Final Assessed Penalty (adjusted for limits) \$2,839

## Economic Benefit Worksheet

**Respondent** IBI BUSINESS, INC. dba Pecan Creek  
**Case ID No.** 40496  
**Reg. Ent. Reference No.** RN101185718  
**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)	\$1,500	1-Jul-2010	21-Jun-2011	0.97	\$73	n/a	\$73

Notes for DELAYED costs

Estimated cost to provide a method of release detection for 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]	\$300	1-Jul-2009	14-Jul-2010	1.95	\$29	\$300	\$329
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting line leak detector tests (\$75 per leak detector). The date required is one year prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance \$1,800

**TOTAL** \$402

**Screening Date** 21-Sep-2010  
**Respondent** IBI BUSINESS, INC. dba Pecan Creek  
**Case ID No.** 40496  
**Reg. Ent. Reference No.** RN101185718  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Wallace Myers

**Docket No.** 2010-1630-PST-E

**PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code § 115.242(3)(G) and Tex. Health & Safety Code § 382.085(b)

**Violation Description**

Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the drop tubes for the supreme, unleaded, and unleaded plus tanks were found to be five, sixty-five, and fourteen inches too short, respectively.

**Base Penalty** \$10,000

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

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

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

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

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events 1      33 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 based on documentation of the violation during the July 1, 2010 investigation.

**Good Faith Efforts to Comply**

25.0% Reduction

\$250

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

Notes: The Respondent came into compliance on August 3, 2010 prior to the Notice of Enforcement ("NOE") issued on September 17, 2010.

**Violation Subtotal** \$750

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$5

**Violation Final Penalty Total** \$857

**This violation Final Assessed Penalty (adjusted for limits)** \$857

## Economic Benefit Worksheet

**Respondent** IBI BUSINESS, INC. dba Pecan Creek  
**Case ID No.** 40496  
**Reg. Ent. Reference No.** RN101185718  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,050	1-Jul-2010	3-Aug-2010	0.09	\$5	n/a	\$5

Notes for DELAYED costs

Actual cost to replace the drop tubes, as per invoice. 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

\$1,050

**TOTAL**

\$5

Screening Date 21-Sep-2010

Docket No. 2010-1630-PST-E

PCW

Respondent IBI BUSINESS, INC. dba Pecan Creek

Policy Revision 2 (September 2002)

Case ID No. 40496

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101185718

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months and vapor space manifold and dynamic back-pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 452 Number of violation days

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

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the July 1, 2010 investigation.

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 August 10, 2010 prior to the NOE issued on September 17, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$554

Violation Final Penalty Total \$2,143

This violation Final Assessed Penalty (adjusted for limits) \$2,143

## Economic Benefit Worksheet

**Respondent** IBI BUSINESS, INC. dba Pecan Creek  
**Case ID No.** 40496  
**Reg. Ent. Reference No.** RN101185718  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	15-May-2009	10-Aug-2010	2.16	\$54	\$500	\$554
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for annual and triennial testing of the Stage II equipment. The date required is the date the ownership changed and the final date is the date of compliance.

Approx. Cost of Compliance

\$500

**TOTAL**

\$554

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603489212 IBI BUSINESS, INC. Classification: AVERAGE Rating: 4.50

Regulated Entity: RN101185718 Pecan Creek Classification: AVERAGE Site Rating: 4.50

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0790202  
 PETROLEUM STORAGE TANK REGISTRATION 16555  
 REGISTRATION

Location: 4749 FM Road 723 , RICHMOND, TX, 77406

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 21, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 21, 2005 to September 21, 2010

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

Name: Wallace Myers Phone: 512-239-6580

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OWNOPR IBI BUSINESS, INC.
4. If Yes, who was/were the prior owner(s)/operator(s)?  
 OWNOPR Texmex Holdings, Inc.  
 RESP  
 OWNOPR Sanobar Enterprises, Inc.
5. When did the change(s) in owner or operator occur?  
 08/13/2007 RESP  
 OWNOPR Sanobar Enterprises, Inc.  
 05/15/2009 OWNOPR Texmex Holdings, Inc.
6. Rating Date: 9/1/2010 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
 1 03/09/2007 (535561)  
 2 09/17/2010 (842939)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/09/2007 (535561) CN603489212

Self NO Classification: Moderate  
 Report?

Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
 Description: Daily inspection logs were not available for review the day of the investigation.

Self NO Classification: Moderate  
 Report?

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  
 Description: At the time of the investigation, the facility did not provide documentation of having a facility representative trained in Stage II Vapor Recovery.

Self NO Classification: Moderate  
 Report?

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)

Description: The operating instruction decal sticker is missing from dispenser number 1.

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  
IBI BUSINESS, INC. DBA PECAN  
CREEK  
RN101185718

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2010-1630-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding IBI BUSINESS, INC. dba Pecan Creek ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 4749 Farm-to-Market Road 723 in Richmond, Fort Bend County, Texas (the "Station").
2. The Respondent's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 22, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Six Hundred Seventy-Eight Dollars (\$8,678) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Two Hundred Twenty-Three Dollars (\$223) of the administrative penalty and One Thousand Seven Hundred Thirty-Five Dollars (\$1,735) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Seven Hundred Twenty Dollars (\$6,720) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Ninety-Two Dollars (\$192) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
  - a. Successfully tested the line leak detectors for performance and operational reliability on July 14, 2010;
  - b. Replaced the drop tubes for the supreme, unleaded, and unleaded plus tanks on August 3, 2010; and
  - c. Successfully conducted the required annual and triennial testing of the Stage II equipment on August 10, 2010.
10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to provide proper corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on July 1, 2010. Specifically, there was no electrical power being supplied to the impressed current system.
2. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on July 1, 2010. Specifically, the Respondent was not conducting the required statistical inventory reconciliation ("SIR") analysis.
3. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 1, 2010.
4. Failed to conduct reconciliation of inventory control at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on July 1, 2010.
5. Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(3)(G) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 1, 2010. Specifically, the drop tubes for the supreme, unleaded, and unleaded plus tanks were found to be five, sixty-five, and fourteen inches too short, respectively.
6. Failed to verify proper operation of the Stage II equipment at least once every 12 months and vapor space manifold and dynamic back-pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 1, 2010. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: IBI BUSINESS, INC. dba Pecan Creek, Docket No. 2010-1630-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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
  - i. Install and implement a corrosion protection system for all USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.49;
  - ii. Install and implement a release detection method, including but not limited to conducting SIR, for all USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
  - iii. Begin conducting reconciliation of inventory control at least once a month, in accordance with 30 TEX. ADMIN. CODE §334.50.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii. 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:

Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

IBI BUSINESS, INC. dba Pecan Creek  
DOCKET NO. 2010-1630-PST-E  
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### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Szollosi  
For the Executive Director

3/15/2011  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, 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, if any, 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 submitted;
- 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, any falsification of any compliance documents may result in criminal prosecution.

[Signature]

Signature

1/11/11

Date

Barkat Marbaha

Name (Printed or typed)

owner

Title

Authorized Representative of  
IBI BUSINESS, INC. dba Pecan Creek

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.