Executive Summary – Enforcement Matter – Case No. 41039
City of Arlington
RN101998243 and RN101385714
Docket No. 2011-0134-PST-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
PST
Small Business:
No
Location(s) Where Violation(s) Occurred:
All Star Services, 1015 West Main Street, Arlington, Tarrant County and Pierce Burch Water Treatment Plant, 1901 Lakewood Drive, Arlington, Tarrant County
Type of Operation:
Fleet refueling operations
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: June 3, 2011
Comments Received: No

Penalty Information

Total Penalty Assessed: $5,000
Amount Deferred for Expedited Settlement: $1,000
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $0
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $4,000
Name of SEP: Cleanup Illegal Dump Site
Compliance History Classifications:
Person/CN - Average
Site/RN101998243 - Average by Default
RN101385714 - High
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41039
City of Arlington
RN101998243 and RN101385714
Docket No. 2011-0134-PST-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 3, 2011

Date(s) of NOE(s): January 5, 2011

Violation Information

1. Failed to monitor underground storage tanks ("USTs") at the All Star Services Facility for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

2. Failed to monitor USTs at the Pierce Burch Water Treatment Plant Facility for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent implemented automatic tank gauging monthly 0.2 gallon per hour tests as part of the release detection method for the three underground storage tanks at the Pierce Burch Water Treatment Plant Facility on February 1 and February 2, 2011.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

2. The Order will also require the Respondent to:

a. Within 30 days:

i. Implement an approved method of release detection for all the USTs at the All Star Services Facility containing more than one inch of regulated substance including, but not limited to the transmission fluid, new oil, and used oil USTs; and

ii. Implement an approved method of release detection for the three USTs at the Pierce Burch Water Treatment Plant Facility,.

b. Within 45 days, submit written certification demonstrating compliance.

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City of Arlington
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Docket No. 2011-0134-PST-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Michaelle Sherlock, Enforcement Division, Enforcement Team 2, MC R-13, (210) 403-4076; Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-4495
Respondent: The Honorable Robert Cluck, Mayor, City of Arlington, 101 West Abram Street, Arlington, Texas 76004-0231
Robert D. Lowry, P.E., Director of Public Works & Transportation, City of Arlington, 101 West Abram Street, Arlington, Texas 76004-0231
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0134-PST-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Arlington
Penalty Amount:	Four Thousand Dollars ($4,000)
SEP Offset Amount:	Four Thousand Dollars ($4,000)
Type of SEP:	Custom
Project Name:	Cleanup Illegal Dump Site
Location of SEP:	Tarrant County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall cleanup illegally dumped waste located at 32.78.812N – 97.13.976W, on Greenbelt Road along the Trinity River on the edge of River Legacy Park and install a fence to help prevent future illegal dumping (the "Project"). Respondent shall bid for contractors to remove and haul away items such as an old boat, dilapidated roof and other bulky waste items and to install a fence along Greenbelt Road. In addition to the fence, Respondent shall erect "No Dumping" signs to discourage future dumping and shall post a sign in a conspicuous location to advertise that the cleanup was performed as a Supplemental Environmental Project as settlement of an enforcement action with TCEQ.

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to do this project and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The SEP will help rid the community of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project
365	Notice of SEP completion

B. Final Report

Within 60 days after completion of SEP, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which included:

1. Itemized list of expenditures and total costs;
2. Summary total amount of costs;
3. Copies of receipts or paid invoices;
4. Copies of checks or payment records matching invoices and paid receipts;

5. Proof of publication of invitation for bids with enforcement statement, as stated in Section 6, *Publicity*, below;
6. Photos of project: during and after and including photographs of the required signage;
7. Manifests for proper disposal and recycling;
8. Certified/notarized statement of quantifiable environmental benefit; and
9. Any additional information that will demonstrate compliance with this Attachment A.

Copies of receipts, checks with associated invoices, and other documentation verifying appropriate expenditures and the completion of the project must be submitted with the final report.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES

Assigned	10-Jan-2011				
PCW	28-Jan-2011	**Screening**	20-Jan-2011	**EPA Due**	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Arlington (All Star Services)		
Reg. Ent. Ref. No.	RN101998243		
Facility/Site Region	4-Dallas/Fort Worth	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	41039	**No. of Violations**	1
Docket No.	2011-0134-PST-E	**Order Type**	1660
Media Program(s)	Petroleum Storage Tank	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Michaelle Sherlock
		EC's Team	Enforcement Team 2

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: $2,500

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 for Compliance History.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5*: $0

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

Total EB Amounts $43

Approx. Cost of Compliance $1,500

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: $2,500

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: $2,500

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: $2,500

DEFERRAL 20.0% Reduction — *Adjustment*: -$500

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: $2,000

Screening Date 20-Jan-2011 **Docket No.** 2011-0134-PST-E **PCW**

Respondent City of Arlington (All Star Services)

Policy Revision 2 (September 2002)

Case ID No. 41039

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101998243

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

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 (*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 for Compliance History.

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

Screening Date 20-Jan-2011 **Docket No.** 2011-0134-PST-E **PCW**

Respondent City of Arlington (All Star Services) *Policy Revision 2 (September 2002)*

Case ID No. 41039 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101998243

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor underground storage tanks ("USTs") at the All Star Services Facility for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	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 — 17 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended from the January 3, 2011 record review date to the January 20, 2011 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

Estimated EB Amount $43

Statutory Limit Test

Violation Final Penalty Total $2,500

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

Economic Benefit Worksheet

Respondent City of Arlington (All Star Services)
Case ID No. 41039
Reg. Ent. Reference No. RN101998243
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	3-Jan-2011	1-Aug-2011	0.58	$43	n/a	$43
Notes for DELAYED costs	Delayed costs include the estimated amount to conduct release detection for the USTs at the Facility. Date required is the record review date and the final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $1,500

TOTAL $43

Compliance History

Customer/Respondent/Owner-Operator: CN600131791 City of Arlington Classification: AVERAGE Rating: 4.44

Regulated Entity: RN101998243 ALL STAR SERVICES Classification: AVERAGE BY DEFAULT Site Rating: 3.01

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 43864
Location: 1015 WEST MAIN STREET, ARLINGTON, TARRANT COUNTY, TEXAS
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: January 10, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 10, 2006 to January 10, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michaelle Sherlock Phone: (210) 403-4076

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: 9/1/2010 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 01/05/2011 (879272)

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

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES						
Assigned	10-Jan-2011					
PCW	28-Jan-2011	**Screening**	20-Jan-11	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	City of Arlington (Pierce Burch Water Treatment Plant)		
Reg. Ent. Ref. No.	RN101385714		
Facility/Site Region	4-Dallas/Fort Worth	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	41039	**No. of Violations**	1
Docket No.	2011-0134-PST-E	**Order Type**	1660
Media Program(s)	Petroleum Storage Tank	**Government/Non-Profit**	Yes
Multi-Media		**Enf. Coordinator**	Michaelle Sherlock
		EC's Team	Enforcement Team 2

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1*: **$2,500**

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 for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5*: **$0**

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$43
Approx. Cost of Compliance	$1,500

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$2,500**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount: **$2,500**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$2,500**

DEFERRAL — **20.0%** Reduction — *Adjustment*: **-$500**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: **$2,000**

Screening Date 20-Jan-2011 **Docket No.** 2011-0134-PST-E **PCW**

Respondent City of Arlington (Pierce Burch Water Treatment F

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Case ID No. 41039

Reg. Ent. Reference No. RN101385714

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

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 (*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 for compliance history.

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

Screening Date 20-Jan-2011 **Docket No.** 2011-0134-PST-E **PCW**

Respondent City of Arlington (Pierce Burch Water Treatment Plant) *Policy Revision 2 (September 2002)*

Case ID No. 41039 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN101385714

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor underground storage tanks ("USTs") at the Pierce Burch Water Treatment Plant Facility for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	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 — 17 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended from the January 3, 2011 record review date to the January 20, 2011 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

Estimated EB Amount $43

Statutory Limit Test

Violation Final Penalty Total $2,500

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

Economic Benefit Worksheet

Respondent City of Arlington (Pierce Burch Water Treatment Plant)
Case ID No. 41039
Reg. Ent. Reference No. RN101385714
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	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	3-Jan-2011	1-Aug-2011	0.58	$43	n/a	$43
Notes for DELAYED costs	Delayed costs include the estimated amount to provide monthly release detection for the three USTs at the facility. Date required is the record review date and the final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $1,500

TOTAL $43

Compliance History

Customer/Respondent/Owner-Operator: CN600131791 City of Arlington Classification: AVERAGE Rating: 4.44

Regulated Entity: RN101385714 PIERCE BURCH WATER TREATMENT PLANT Classification: HIGH Site Rating: 0.00

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 2200001

PETROLEUM STORAGE TANK REGISTRATION 43866

WATER LICENSING LICENSE 2200001

Location: 1901 LAKEWOOD DRIVE, ARLINGTON, TARRANT COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: January 10, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 10, 2006 to January 10, 2011

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

Name: Michaelle Sherlock Phone: (210) 403-4076

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: 9/1/2010 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 07/06/2006 (481596)
2 05/09/2007 (542158)
3 08/17/2009 (763258)
4 09/24/2009 (777122)
5 04/01/2010 (790898)
6 01/04/2011 (878941)

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 CONCERNING CITY OF ARLINGTON RN101998243 RN101385714	**§ § § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2011-0134-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 the City of Arlington ("the Respondent") under the authority of 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 fleet refueling operations at the following locations (the "Facilities"):

   a. All Star Services, located at 1015 West Main Street, Arlington, Tarrant County, Texas (the "All Star Services Facility"); and

   b. Pierce Burch Water Treatment Plant, located at 1901 Lakewood Drive, Arlington, Tarrant County, Texas (the "Pierce Burch Water Treatment Plant Facility").

2. The Respondent's nine underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.

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 January 10, 2011.

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 Five Thousand Dollars ($5,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Dollars ($1,000) of the administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Four Thousand Dollars ($4,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 implemented automatic tank gauging monthly 0.2 gallon per hour tests as part of the release detection method for the three underground storage tanks at the Pierce Burch Water Treatment Plant Facility on February 1 and February 2, 2011.

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 Facilities, the Respondent is alleged to have:

1. Failed to monitor USTs at the All Star Services Facility 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 a record review conducted on January 3, 2011; and

2. Failed to monitor USTs at the Pierce Burch Water Treatment Plant Facility 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 a record review conducted on January 3, 2011.

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: City of Arlington, Docket No. 2011-0134-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. The Respondent shall implement and complete a supplemental environmental project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Dollars ($4,000) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements at the Facilities:

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

      i. Implement an approved method of release detection for all the USTs at the All Star Services Facility containing more than one inch of regulated substance including, but not limited to the transmission fluid, new oil, and used oil USTs, in accordance with 30 TEX. ADMIN. CODE § 334.50; and

ii. Implement an approved method of release detection for the three USTs at the Pierce Burch Water Treatment Plant Facility, 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 No. 3.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:

PST Team Leader
Center for Environmental Excellence
The University of Texas at Arlington
1851 Crosspoint, Suite 1270
Houston, Texas 77054-3709

4. 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 Facility operations referenced in this Agreed Order.

5. 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.

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 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.

7. 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.

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. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ _____
For the Executive Director Date

6/3/2011

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 Date

5-5-2011

Robert D. Lowry, P.E.
Name (Printed or typed)
Authorized Representative of
City of Arlington

Director of Public Works & Transportation
Title

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.

Attachment A
Docket Number: 2011-0134-PST-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Arlington
Penalty Amount:	Four Thousand Dollars ($4,000)
SEP Offset Amount:	Four Thousand Dollars ($4,000)
Type of SEP:	Custom
Project Name:	Cleanup Illegal Dump Site
Location of SEP:	Tarrant County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall cleanup illegally dumped waste located at 32.78.812N – 97.13.976W, on Greenbelt Road along the Trinity River on the edge of River Legacy Park and install a fence to help prevent future illegal dumping (the "Project"). Respondent shall bid for contractors to remove and haul away items such as an old boat, dilapidated roof and other bulky waste items and to install a fence along Greenbelt Road. In addition to the fence, Respondent shall erect "No Dumping" signs to discourage future dumping and shall post a sign in a conspicuous location to advertise that the cleanup was performed as a Supplemental Environmental Project as settlement of an enforcement action with TCEQ.

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to do this project and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The SEP will help rid the community of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project
365	Notice of SEP completion

B. Final Report

Within 60 days after completion of SEP, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which included:

1. Itemized list of expenditures and total costs;
2. Summary total amount of costs;
3. Copies of receipts or paid invoices;
4. Copies of checks or payment records matching invoices and paid receipts;

5. Proof of publication of invitation for bids with enforcement statement, as stated in Section 6, *Publicity*, below;
6. Photos of project: during and after and including photographs of the required signage;
7. Manifests for proper disposal and recycling;
8. Certified/notarized statement of quantifiable environmental benefit; and
9. Any additional information that will demonstrate compliance with this Attachment A.

Copies of receipts, checks with associated invoices, and other documentation verifying appropriate expenditures and the completion of the project must be submitted with the final report.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to "Texas Commission on Environmental Quality" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.