EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41817
Colon Enterprises, Inc. d/b/a My-T-Quick
RN102358793
Docket No. 2011-0928-PST-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
102 East Belt Line Road, Cedar Hill, Dallas County

Type of Operation:
convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: August 17, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: $16,262

Total Paid to General Revenue: $7,162

Total Due to General Revenue: $9,100
Payment Plan: 35 payments of $260 each

SEP Conditional Offset: N/A

Compliance History Classifications:
Person/CN – Not yet Rated
Site/RN – Average by Default

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: May 11, 2011

Date(s) of NOV(s): N/A

Date(s) of NOE(s): June 1, 2011

Violation Information

1. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.244(1) and (3)].
2. Failed to maintain Stage II records at the Station [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1) and (5)].
3. Failed to verify proper operation of the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2)].
4. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(1)].
5. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change [30 TEX. ADMIN. CODE § 334.7(d)(3)].
6. Failed to maintain all the required UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
7. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4)].
8. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), by failing to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and by failing to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I)].
9. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid and debris [30 TEX. ADMIN. CODE § 334.42(i)].
10. Failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)(2)].
11. Failed to ensure that any residue from stored regulated substances which remained in the UST did not exceed a depth of 2.5 centimeters ("cm") at the deepest point and did not exceed 0.3% by weight of the system at full capacity [30 TEX. ADMIN. CODE § 334.54(d)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer owns or operates the Station as of September 1, 2011.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: November 22, 2011

Date Answer(s) Filed: December 29, 2011

SOAH Referral Date: January 30, 2012

Hearing Date(s):
Preliminary hearing: March 9, 2012
Evidentiary hearing: N/A

Settlement Date: July 30, 2012

Contact Information

TCEQ Attorneys: Phillip M. Goodwin, P.G., Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Scott Humphrey, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division,

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office,

Respondent: Eduardo E. Colon, President, Colon Enterprises, Inc., 1012 Aries Street, Cedar Hill, Texas 75104

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	6-Jun-2011				
PCW	19-Sep-2011	Screening	10-Jun-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Colon Enterprises, Inc. dba My-T-Quick		
Reg. Ent. Ref. No.	RN102358793		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41817	No. of Violations	10
Docket No.	2011-0928-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **$16,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: No adjustment 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* **$1,375**

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

Total EB Amounts $1,764
Approx. Cost of Compliance $5,350

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$14,625**

OTHER FACTORS AS JUSTICE MAY REQUIRE **11.2%** *Adjustment* **$1,637**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1, 3, 7 and 9.

Final Penalty Amount **$16,262**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$16,262**

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

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **$16,262**

Screening Date	10-Jun-2011	**Docket No.**	2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick			*Policy Revision 2 (September 2002)*
Case ID No.	41817			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Keith Frank			

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)

N/A

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	10-Jun-2011	**Docket No.**	2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick			*Policy Revision 2 (September 2002)*
Case ID No.	41817			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Keith Frank			

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.244(1) and (3) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 14 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 May 11, 2011 investigation to the May 25, 2011 date of compliance.

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 May 25, 2011 prior to the Notice of Enforcement ("NOE") dated June 1, 2011.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $368

Statutory Limit Test

Violation Final Penalty Total $834

This violation Final Assessed Penalty (adjusted for limits) $834

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				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]	$350	11-Apr-2011	25-May-2011	1.04	$18	$350	$368
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost to conduct the required inspections of the components of the Stage II vapor recovery system. Date Required is one month prior to the investigation date. Final Date is the date of compliance.						

Approx. Cost of Compliance $350

TOTAL $368

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.246(1) and (5) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records at the Station. Specifically, a copy of the correct California Air Resources Board Executive Order and records of test results for the Stage II vapor recovery system were not made immediately available for review at the time of the investigation.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $20

Statutory Limit Test

Violation Final Penalty Total $1,112

This violation Final Assessed Penalty (adjusted for limits) $1,112

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$500	11-May-2011	2-Mar-2012	0.81	$20	n/a	$20
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to maintain Stage II records at the Station. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $500

TOTAL $20

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 3

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 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 triennial compliance testing had not been conducted by the due date of February 25, 2011.

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 — 75 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 for the period from the February 25, 2011 due date to the May 11, 2011 date of compliance.

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 May 11, 2011 prior to the NOE dated June 1, 2011.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $528

Statutory Limit Test

Violation Final Penalty Total $2,085

This violation Final Assessed Penalty (adjusted for limits) $2,085

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
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	25-Feb-2011	11-May-2011	1.12	$28	$500	$528
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost for testing of the Stage II equipment. Date Required is the test due date. Final Date is the date of compliance.						

Approx. Cost of Compliance $500

TOTAL $528

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 14 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 May 11, 2011 investigation to the May 25, 2011 date of compliance.

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 May 25, 2011 prior to the NOE dated June 1, 2011.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $834

This violation Final Assessed Penalty (adjusted for limits) $834

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling	$500	11-May-2011	25-May-2011	0.04	$1	n/a	$1
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 of training a Stage II Station representative and conducting in-house employee Stage II training. Date Required is the investigation date. Final Date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $500

TOTAL $1

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description Failed to notify the agency of any change or additional information regarding the underground storage tanks ("USTs") within 30 days of the occurrence of the change. Specifically, the registration was not updated to reflect the correct type of piping, Stage I exemption status, and the current operational status of tank nos. 2 and 3.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1

160 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $1,112

This violation Final Assessed Penalty (adjusted for limits) $1,112

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$100	11-May-2011	2-Mar-2012	0.81	$4	n/a	$4

Notes for DELAYED costs: Estimated cost to accurately prepare and submit an updated UST registration and self-certification form. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $100

TOTAL $4

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 6

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

Violation Description Failed to maintain all the required UST records and make them immediately available for inspection upon request by agency personnel.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $20

Statutory Limit Test

Violation Final Penalty Total $1,112

This violation Final Assessed Penalty (adjusted for limits) $1,112

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$500	11-May-2011	2-Mar-2012	0.81	$20	n/a	$20
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to maintain UST records. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $500

TOTAL $20

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 7

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

Violation Description Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $7,500

$2,500

Violation Events

1 — 30 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 based on documentation of the violation during the May 11, 2011 investigation to the June 10, 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 $635

Statutory Limit Test

Violation Final Penalty Total $2,780

This violation Final Assessed Penalty (adjusted for limits) $2,780

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$100	1-Dec-2010	11-May-2011	1.36	$7	$100	$107
Other (as needed)	$500	12-Mar-2011	25-May-2011	1.12	$28	$500	$528
Notes for AVOIDED costs	Estimated avoided cost for conducting the triennial test ($500). Date Required is the date of ownership change. Final Date is the investigation date. Estimated avoided cost to conduct bimonthly inspections of the rectifier and other components of the cathodic protection system ($100). Date Required is 60 days before the investigation date. Final Date is the date of compliance.						

Approx. Cost of Compliance $600

TOTAL $635

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 8

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

Violation Description Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $7,500

$2,500

Violation Events

1 — 30 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 based on documentation of the violation during the May 11, 2011 investigation to the June 10, 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 $61

Statutory Limit Test

Violation Final Penalty Total $2,780

This violation Final Assessed Penalty (adjusted for limits) $2,780

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$1,500	11-May-2011	2-Mar-2012	0.81	$61	n/a	$61

Notes for DELAYED costs: Estimated cost to provide release detection for the USTs including recording daily volume measurement and monthly reconciliation of inventory control records. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $1,500

TOTAL $61

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 9

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

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

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Major	Harm Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1

14 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 May 11, 2011 investigation to the May 25, 2011 date of compliance.

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 May 25, 2011 prior to the NOE dated June 1, 2011.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $106

Statutory Limit Test

Violation Final Penalty Total $834

This violation Final Assessed Penalty (adjusted for limits) $834

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal	$200	11-May-2011	25-May-2011	0.04	$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 for removing liquid and debris from the spill buckets and proper disposal. Date Required is the investigation date. 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]	$100	12-Mar-2011	25-May-2011	1.12	$6	$100	$106
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. Date Required is 60 days prior to the investigation date. Final Date is the date of compliance.						

Approx. Cost of Compliance $300

TOTAL $106

Screening Date	10-Jun-2011	**Docket No.** 2011-0928-PST-E	**PCW**
Respondent	Colon Enterprises, Inc. dba My-T-Quick		*Policy Revision 2 (September 2002)*
Case ID No.	41817		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102358793		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Keith Frank		

Violation Number 10

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

Violation Description Failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, tank no. 2 is temporarily out-of-service and is not secured. Also, failed to ensure that any residue from stored regulated substances which remained in the UST did not exceed a depth of 2.5 centimeters ("cm") at the deepest point and did not exceed 0.3% by weight of the system at full capacity. Specifically, tank no. 2 contained 33-36 cm of a regulated substance.

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 — 30 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 based on documentation of the violation during the May 11, 2011 investigation to the June 10, 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 $20

Statutory Limit Test

Violation Final Penalty Total $2,780

This violation Final Assessed Penalty (adjusted for limits) $2,780

Economic Benefit Worksheet

Respondent Colon Enterprises, Inc. dba My-T-Quick
Case ID No. 41817
Reg. Ent. Reference No. RN102358793
Media Petroleum Storage Tank
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$500	11-May-2011	2-Mar-2012	0.81	$20	n/a	$20

Notes for DELAYED costs: Estimated cost to empty tank no. 2 and secure all piping, pump, manways, tank access points, and ancillary equipment. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs							
	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $500

TOTAL $20

Compliance History

Customer/Respondent/Owner-Operator:	CN603803677	Colon Enterprises, Inc.	Classification:	Rating:
Regulated Entity:	RN102358793	My-T-Quick	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK		REGISTRATION	30705
Location:	102 E BELT LINE RD, CEDAR HILL, TX, 75104			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	June 10, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 10, 2006 to June 10, 2011			

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

Name: Keith Frank Phone: (512) 239-1203

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? Colon Enterprises, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? AKBAR FOOD WAFERS INC
5. When did the change(s) in owner or operator occur? 12/01/2010
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 06/01/2011 (920287)

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

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING COLON ENTERPRISES, INC. D/B/A MY-T-QUICK; RN102358793	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-0928-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Colon Enterprises, Inc. d/b/a My-T-Quick ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owned and operated, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 102 East Belt Line Road in Cedar Hill, Dallas County, Texas (the "Station"). The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.

3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of sixteen thousand two hundred sixty-two dollars ($16,262.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid seven thousand one hundred sixty-two dollars ($7,162.00) of the administrative penalty. The remaining amount of nine thousand one hundred dollars ($9,100.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred sixty dollars ($260.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days

following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

8. The Executive Director recognizes that as of September 1, 2011, Respondent no longer owns or operates the Station.

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

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

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

II. ALLEGATIONS

1. During an investigation conducted on May 11, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:

   a. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.244(1) and (3);

   b. Failed to maintain Stage II records at the Station, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1) and (5). Specifically, a copy of the correct California Air Resources Board ("CARB") Executive Order and records of test results for the Stage II vapor recovery system were not made immediately available for review at the time of the investigation;

   c. Failed to verify proper operation of the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2).

Specifically, the Stage II triennial compliance testing had not been conducted by the due date of February 25, 2011;

d. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(1);

e. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3). Specifically, the registration was not updated to reflect the correct type of piping, Stage I exemption status, and the current operational status of tank nos. 2 and 3;

f. Failed to maintain all the required UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b);

g. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4);

h. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), by failing to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and by failing to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I);

i. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid and debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i). Specifically, the overfill containers contained liquid and debris;

j. Failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2). Specifically, tank no. 2 was temporarily out-of-service and was not secured; and

k. Failed to ensure that any residue from stored regulated substances which remained in the UST did not exceed a depth of 2.5 centimeters ("cm") at the

deepest point and did not exceed 0.3% by weight of the system at full capacity, in violation of 30 TEX. ADMIN. CODE § 334.54(d)(2). Specifically, tank no. 2 contained 33-36 cm of a regulated substance.

2. Respondent received notice of the violations on or about June 6, 2011.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Colon Enterprises, Inc. d/b/a My-T-Quick, Docket No. 2011-0928-PST-E" to:

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

2. All relief not expressly granted in this Agreed Order is denied.

3. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against 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.

6. 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.

7. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ September 17, 2012
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Colon Enterprises, Inc. d/b/a My-T-Quick, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

_____ 7/30/12
Signature - Eduardo E. Calderon, President Date
Colon Enterprises, Inc.