

**Executive Summary – Enforcement Matter – Case No. 36831  
Amirali Ladhani and Fatima Ladhani d/b/a Rick's Drive Inn  
RN101907780  
Docket No. 2010-1576-PST-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Indifference to legal duty based on violation of a previous order.

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

8157 Highway 281, Leming, Atascosa 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:** January 20, 2012

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$31,105

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$865

**Total Due to General Revenue:** \$30,240

Payment Plan: 35 payments of \$864 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – Poor (both Respondents)  
Site/RN – Poor

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Docket No. 2010-1576-PST-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** June 23, 2010  
**Date(s) of NOV(s):** November 24, 2009  
**Date(s) of NOE(s):** August 23, 2010«NOE\_date»

***Violation Information***

1. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
2. Failed to notify the agency of any change or additional information regarding USTs within 30 days from the date of occurrence of the change or addition; and failed to ensure that a complete and accurate UST registration and self-certification form is submitted to the agency in a timely manner [30 TEX. ADMIN. CODE §§334.7(d)(3) and 334.8(c)(4)(B)].
3. Failed to ensure that the observation well access vault or manhole is equipped with a liquid-tight cover and the observation well is properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, and any deliberate or accidental depositing of unauthorized substances [30 TEX. ADMIN. CODE § 334.46(g)(1)(H)].
4. Failed to conduct effective manual or automatic inventory control procedures for all USTs at the Facility [30 TEX. ADMIN. CODE § 334.48(c) and TCEQ Agreed Order Docket No. 2008-1916-PST-E, Ordering Provision No. 3.a.].
5. 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 or debris [30 TEX. ADMIN. CODE § 334.42(i)].
6. Failed to equip each pressurized line with an automatic line leak detector [TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(I) and (II), and TEX. WATER CODE § 26.3475(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By January 31, 2011:

1. Began maintaining the UST records;
2. Began conducting effective manual or automatic inventory control procedures for all USTs at the Facility;
3. Repaired the line leak detector on UST No. 1B;
4. Installed liquid-tight covers on the tank observation wells and ensured that the wells were properly capped, labeled, and secured;
5. Cleaned the spill buckets and began conducting bimonthly inspections of all sumps, manways, overspill containers or catchment basins associated with a UST system; and
6. Submitted a UST registration form to reflect the correct substance stored in UST No. 1B.

**Technical Requirements:**

N/A

**Executive Summary – Enforcement Matter – Case No. 36831  
Amirali Ladhani and Fatima Ladhani d/b/a Rick's Drive Inn  
RN101907780  
Docket No. 2010-1576-PST-E**

***Litigation Information***

**Date Petition(s) Filed:** December 31, 2010  
**Date Answer(s) Filed:** February 10, 2011  
**SOAH Referral Date:** March 28, 2011  
**Hearing Date(s):**  
    Preliminary hearing: May 19, 2011  
    Evidentiary hearing: September 15, 2011 (continued)  
                                    December 6, 2011 (abated)  
**Settlement Date:** December 11, 2011

***Contact Information***

**TCEQ Attorneys:** Tammy Mitchell, Litigation Division, (512) 239-3400  
                            Lena Roberts, Litigation Division, (512) 239-3400  
**TCEQ SEP Coordinator:** N/A  
**TCEQ Enforcement Coordinator:** Theresa Stephens, Waste Enforcement Section, (512) 239- 2545  
**TCEQ Regional Contact:** Joel Anderson, San Antonio Regional Office, (210) 490-3096  
**Respondent:** Amirali Ladhani and Fatima Ladhani, P.O. Box 1193, Poteet, Texas 78065  
**Respondent's Attorney:** N/A

**THIS PAGE INTENTIONALLY LEFT BLANK**



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Sep-2010	<b>Screening</b>	16-Sep-2010	<b>EPA Due</b>	
	<b>PCW</b>	16-Sep-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>						
<b>Respondent</b>	Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn					
<b>Reg. Ent. Ref. No.</b>	RN101907780					
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Minor			

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	36831	<b>No. of Violations</b>	6			
<b>Docket No.</b>	2010-1576-PST-E	<b>Order Type</b>	Findings			
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No			
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Theresa Hagood			
		<b>EC's Team</b>	Enforcement Team 6			
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000			

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$20,000
---	-------------------	----------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	55.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$11,000
---------------------------	-------------------	--------------------------------	----------

Notes: Enhancement for one NOV with same or similar violations and two previous Orders containing a denial of liability and poor performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondents do not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$185  
 Approx. Cost of Compliance: \$1,650  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$31,000
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.3%	<b>Adjustment</b>	\$105
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost compliance associated with violation no. 5.

<b>Final Penalty Amount</b>	\$31,105
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$31,105
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
-----------------	------	-----------	-------------------	-----

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

Notes: No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$31,105
------------------------	----------

**Screening Date** 16-Sep-2010

**Docket No.** 2010-1576-PST-E

**PCW**

**Respondent** Amirali Ladhani and Fatima Ladhani dba Rick's Dr

*Policy Revision 2 (September 2002)*

**Case ID No.** 36831

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101907780

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Theresa Hagood

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 45%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Poor Performer

**Adjustment Percentage (Subtotal 7)** 10%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one NOV with same or similar violations and two previous Orders containing a denial of liability and poor performer classification.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 55%

Screening Date 16-Sep-2010

Docket No. 2010-1576-PST-E

PCW

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn

Policy Revision 2 (September 2002)

Case ID No. 36831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101907780

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 1

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

Violation Description Failed to maintain the required underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 85 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the June 23, 2010 investigation.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondents came into compliance on January 31, 2011, after the EDPRP was filed and therefore the Respondents do not meet the good faith requirements.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$1,555

This violation Final Assessed Penalty (adjusted for limits) \$1,555

## Economic Benefit Worksheet

**Respondent** Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn  
**Case ID No.** 36831  
**Req. Ent. Reference No.** RN101907780  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	23-Jun-2010	31-Jan-2011	0.61	\$15	n/a	\$15
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 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**

\$15

Screening Date 16-Sep-2010

Docket No. 2010-1576-PST-E

PCW

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn

Policy Revision 2 (September 2002)

Case ID No. 36831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101907780

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 334.7(d)(3) and 334.8(c)(4)(B)

Violation Description

Failed to notify the agency of any change or additional information regarding USTs, within 30 days from the date of occurrence of the change or addition. Specifically, the registration indicates that the substance stored in UST No. 1B is gasoline but the investigator noted diesel fuel in the UST at the time of the investigation. Also, failed to ensure that a complete and accurate UST registration and self-certification form is submitted to the agency in a timely manner. Specifically, the information on the UST registration relating to the contents in UST No. 1B and the line leak detector were inaccurate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 85 Number of violation days

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

Violation Base Penalty \$1,000

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes

The Respondents came into compliance on January 31, 2011, after the EDPRP was filed and therefore the Respondents do not meet the good faith requirements.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,555

This violation Final Assessed Penalty (adjusted for limits) \$1,555

## Economic Benefit Worksheet

**Respondent** Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn  
**Case ID No.** 36831  
**Req. Ent. Reference No.** RN101907780  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	23-Jun-2010	31-Jan-2011	0.61	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The date required is the date of the investigation. The final date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$3

Screening Date 16-Sep-2010

Docket No. 2010-1576-PST-E

PCW

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn

Policy Revision 2 (September 2002)

Case ID No. 36831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101907780

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.46(g)(1)(H)

Violation Description Failed to ensure that the observation well access vault or manhole is equipped with a liquid-tight cover and the observation well is properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, and any deliberate or accidental depositing of unauthorized substances.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%).

>> Programmatic Matrix

Table with columns: 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 85 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation from the June 23, 2010 investigation to the September 16, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondents came into compliance on January 31, 2011, after the EDPRP was filed and therefore the Respondents do not meet the good faith requirements.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,555

This violation Final Assessed Penalty (adjusted for limits) \$1,555

## Economic Benefit Worksheet

**Respondent** Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn  
**Case ID No.** 36831  
**Req. Ent. Reference No.** RN101907780  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	23-Jun-2010	31-Jan-2011	0.61	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to properly secure the monitoring well. 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

\$100

**TOTAL**

\$3

Screening Date 16-Sep-2010

Docket No. 2010-1576-PST-E

PCW

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn

Policy Revision 2 (September 2002)

Case ID No. 36831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101907780

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 4

Rule Cite(s) TCEQ Agreed Order, Docket No. 2008-1916-PST-E, Ordering Provision No. 3.a. and 30 Tex. Admin. Code § 334.48(c)

Violation Description Failed to conduct effective manual or automatic inventory control procedures for all USTs at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 6 501 Number of violation days

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

Violation Base Penalty \$15,000

Six quarterly events are recommended from the May 3, 2009 Order effective date to the September 16, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondents came into compliance on January 31, 2011, after the EDPRP was filed and therefore the Respondents do not meet the good faith requirements.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$44

Violation Final Penalty Total \$23,329

This violation Final Assessed Penalty (adjusted for limits) \$23,329

## Economic Benefit Worksheet

**Respondent** Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn  
**Case ID No.** 36831  
**Req. Ent. Reference No.** RN101907780  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	3-May-2009	31-Jan-2011	1.75	\$44	n/a	\$44
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. The Date Required is the order effective date and the Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$44

Screening Date 16-Sep-2010

Docket No. 2010-1576-PST-E

PCW

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn

Policy Revision 2 (September 2002)

Case ID No. 36831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101907780

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 5

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 or debris. Specifically, the spill containment buckets contained liquid and debris.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 60 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 for the period preceding the June 23, 2010 investigation.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes

The Respondents came into compliance on January 31, 2011, after the EDPRP was filed and therefore the Respondents do not meet the good faith requirements.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$1,555

This violation Final Assessed Penalty (adjusted for limits) \$1,555

## Economic Benefit Worksheet

**Respondent** Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn  
**Case ID No.** 36831  
**Req. Ent. Reference No.** RN101907780  
**Media** Petroleum Storage Tank  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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	24-Apr-2010	23-Jun-2010	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. The date required is 60 days before the investigation and the final date is the investigation date.

Approx. Cost of Compliance \$100

**TOTAL** \$105

Screening Date 16-Sep-2010

Docket No. 2010-1576-PST-E

PCW

Respondent Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn

Policy Revision 2 (September 2002)

Case ID No. 36831

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101907780

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(I) and (b)(2)(A)(i)(II) and Tex. Water Code § 26.3475(a)

Violation Description Failed to equip each pressurized line with an automatic line leak detector. Specifically, the line leak detector on UST No. 1B was disconnected.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
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 85 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$1,000
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

One quarterly event is recommended from the June 23, 2010 investigation to the September 16, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondents came into compliance on January 31, 2011, after the EDPRP was filed and therefore the Respondents do not meet the good faith requirements.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15 Violation Final Penalty Total \$1,555

This violation Final Assessed Penalty (adjusted for limits) \$1,555

## Economic Benefit Worksheet

**Respondent** Amirali Ladhani and Fatima Ladhani dba Rick's Drive Inn  
**Case ID No.** 36831  
**Req. Ent. Reference No.** RN101907780  
**Media** Petroleum Storage Tank  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$350	23-Jun-2010	31-Jan-2011	0.61	\$1	\$14	\$15
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated to cost to repair and/or replace the line leak detector. The date required is the investigation date and the final date is the compliance date.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$350

**TOTAL**

\$15

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600934632 LADHANI, AMIRALI Classification: POOR Rating: 87.25

Regulated Entity: RN101907780 RICK'S DRIVE INN Classification: POOR Site Rating: 87.25

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 74454  
REGISTRATION

Location: 8157 HIGHWAY 281, LEMING, TX, 78050

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: February 15, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 27, 2005 to October 27, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Theresa Hagood Phone: (512) 239 - 2540

## 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. If **YES**, 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.

**Effective Date: 03/23/2006**

**ADMINORDER 2005-0618-PST-E**

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)  
30 TAC Chapter 37, SubChapter I 37.815(b)

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

**Effective Date: 05/03/2009**

**ADMINORDER 2008-1916-PST-E**

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(I)

Description: Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring).

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: 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.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failed to ensure that the emergency shutoff valves (also known as a shear or impact valve) were securely anchored at the base of the dispensers.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failed to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)

Description: Failed to conduct effective manual or automatic inventory control procedures for the UST system.

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	11/14/2008	(704295)
2	11/30/2009	(780374)
3	08/20/2010	(844042)

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

**Date: 11/24/2009 (780374) CN600934632**

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(I)

Description: Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring).

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: 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.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failed to ensure that the emergency shutoff valves (also known as a shear or impact valve) were securely anchored at the base of the dispensers.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failed to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)

Description: Failed to conduct effective manual or automatic inventory control procedures for the UST system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

## Compliance History Report

Customer/Respondent/Owner-Operator: CN603425364 Fatima Ladhani Classification: POOR Rating: 87.25

Regulated Entity: RN101907780 RICK'S DRIVE INN Classification: POOR Site Rating: 87.25

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 74454  
REGISTRATION

Location: 8157 HIGHWAY 281, LEMING, TX, 78050

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: February 15, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 27, 2005 to October 27, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Theresa Hagood Phone: (512) 239 - 2540

### 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. If **YES**, 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.

**Effective Date: 03/23/2006**

**ADMINORDER 2005-0618-PST-E**

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)  
30 TAC Chapter 37, SubChapter I 37.815(b)

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

**Effective Date: 05/03/2009**

**ADMINORDER 2008-1916-PST-E**

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(I)

Description: Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring).

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: 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.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failed to ensure that the emergency shutoff valves (also known as a shear or impact valve) were securely anchored at the base of the dispensers.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failed to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)

Description: Failed to conduct effective manual or automatic inventory control procedures for the UST system.

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	11/14/2008	(704295)
2	11/30/2009	(780374)
3	08/20/2010	(844042)

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

**Date: 11/24/2009 (780374) CN600934632**

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(I)

Description: Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring).

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: 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.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failed to ensure that the emergency shutoff valves (also known as a shear or impact valve) were securely anchored at the base of the dispensers.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failed to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)

Description: Failed to conduct effective manual or automatic inventory control procedures for the UST system.

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  
AMIRALI LADHANI AND  
FATIMA LADHANI DBA  
RICKS DRIVE INN;  
RN101907780**

**§  
§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1576-PST-E**

At its \_\_\_\_\_ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Amirali Ladhani and Fatima Ladhani DBA Rick's Drive Inn ("Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents presented this Agreed Order to the Commission.

Respondents understand that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Respondents agree to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully-integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon Respondents.

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

### **FINDINGS OF FACT**

1. Respondents own and operate, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), one underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 8157 Highway 281 in Leming, Atascosa County, Texas (the "Facility"). The UST at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on June 23, 2010, a TCEQ San Antonio Regional Office investigator documented that Respondents:

- a. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel;
  - b. Failed to notify the agency of any change or additional information regarding the UST within 30 days from the date of occurrence of the change or addition. Specifically, the registration indicates that the substance stored in UST No. 1B is gasoline, but the investigator noted diesel fuel in the UST at the time of the investigation. Also, failed to ensure that a complete and accurate UST registration and self-certification form is submitted to the agency in a timely manner. Specifically, the information on the UST registration relating to the contents in UST No. 1B and the line leak detector were inaccurate;
  - c. Failed to ensure that the observation well access vault or manhole is equipped with a liquid-tight cover and the observation well is properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, and any deliberate or accidental depositing of unauthorized substances;
  - d. Failed to conduct effective manual or automatic inventory control procedures for all USTs at the Facility;
  - e. 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 or debris. Specifically, the spill containment buckets contained liquid and debris; and
  - f. Failed to equip each pressurized line with an automatic line leak detector. Specifically, the line leak detector on UST No. 1B was disconnected.
3. Respondents received notice of the violations on or about August 28, 2010.
4. The Executive Director recognizes that Respondents implemented the following corrective measures on January 31, 2011, at the Facility:
- a. Began maintaining the UST records (Conclusion of Law No. 2);
  - b. Began conducting effective manual or automatic inventory control procedures for all USTs at the Facility (Conclusion of Law No. 5);
  - c. Repaired the line leak detector on UST No. 1B (Conclusion of Law No. 7);
  - d. Installed liquid-tight covers on the tank observation wells and ensured that the wells were properly capped, labeled, and secured (Conclusion of Law No. 4);
  - e. Cleaned the spill buckets and began conducting bimonthly inspections of all sumps, manways, overspill containers or catchment basins associated with a UST system (Conclusion of Law No. 6); and
  - f. Submitted a UST registration form to reflect the correct substance stored in UST No. 1B (Conclusion of Law No. 3).

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondents violated 30 TEX. ADMIN. CODE § 334.10(b), by failing to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.
3. As evidenced by Finding of Fact No. 2.b., Respondents violated 30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.8(c)(4)(B), by failing to notify the agency of any change or additional information regarding USTs within 30 days from the date of occurrence of the change or addition; and by failing to ensure that a complete and accurate UST registration and self-certification form is submitted to the agency in a timely manner.
4. As evidenced by Finding of Fact No. 2.c., Respondents violated 30 TEX. ADMIN. CODE § 334.46(g)(1)(H), by failing to ensure that the observation well access vault or manhole is equipped with a liquid-tight cover and the observation well is properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, and any deliberate or accidental depositing of unauthorized substances.
5. As evidenced by Finding of Fact No. 2.d., Respondents violated 30 TEX. ADMIN. CODE § 334.48(c) and TCEQ Agreed Order Docket No. 2008-1916-PST-E, Ordering Provision No. 3.a., by failing to conduct effective manual or automatic inventory control procedures for all USTs at the Facility.
6. As evidenced by Finding of Fact No. 2.e., Respondents violated 30 TEX. ADMIN. CODE § 334.42(i), by failing to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid or debris.
7. As evidenced by Finding of Fact No. 2.f., Respondents violated 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(I) and (II), and TEX. WATER CODE § 26.3475(a), by failing to equip each pressurized line with an automatic line leak detector.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of thirty-one thousand one hundred five dollars (\$31,105.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in Tex. Water Code § 7.053. Respondents paid eight hundred sixty-five dollars (\$865.00) of the administrative penalty. The remaining amount of thirty thousand two hundred forty dollars (\$30,240.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of eight hundred sixty-four dollars (\$864.00) 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 Respondents fail 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, Respondents' failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondents to timely and satisfactorily comply with all of the terms of this Agreed Order.

### ORDERING PROVISIONS

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

1. Respondents are assessed an administrative penalty as set forth in Conclusion of Law No. 9, above, for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the matters set forth by this Agreed Order in this action. 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: Amirali Ladhani and Fatima Ladhani DBA Rick's Drive Inn, Docket No. 2010-1576-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. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Respondents fail to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Agreed Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondents, or three days after the date on which the Commission mails notice of this Agreed Order to Respondents, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*[Handwritten Signature]*

For the Executive Director

2/24/2012 <sup>88R</sup>

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 **Amirali Ladhani and Fatima Ladhani DBA Rick's Drive Inn**, 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.

*Amirali Ladhani*

Signature - Amirali Ladhani

12/11/11.

Date

*Fatima Ladhani*

Signature - Fatima Ladhani

12/11/11.

Date