

**Executive Summary – Enforcement Matter – Case No. 42444  
Sam Zamer and WBZ LLC dba Meyerland Shell and Westheimer Mobil  
RN102437753 and RN102783420  
Docket No. 2011-1623-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

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

Meyerland Shell, 5270 Beechnut Street, Houston, Harris County; and  
Westheimer Mobil, 10146 Westheimer Road, Houston, Harris County

**Type of Operation:**

Convenience stores with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 10, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$12,527

**Amount Deferred for Expedited Settlement:** \$2,505

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$5,011

**Total Due to General Revenue:** \$5,011

Payment Plan: 1 payment of \$5,011

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

(RN102783420) Person/CN - Average

Site/RN - Average

(RN102437753) Person/CN - Average

Site/RN - High

**Major Source (RN102437753):** Yes

**Major Source (RN102783420):** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 42444**  
**Sam Zamer and WBZ LLC dba Meyerland Shell and Westheimer Mobil**  
**RN102437753 and RN102783420**  
**Docket No. 2011-1623-PST-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** February 2, 2011 and August 31, 2011

**Date(s) of NOE(s):** August 24, 2011 and August 31, 2011

***Violation Information***

1. Failed to demonstrate acceptable financial assurance for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum underground storage tanks (“USTs”) at the Meyerland Shell Facility [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
2. Failed to maintain the required UST records at the Meyerland Shell Facility and make them immediately available for inspection at the request of agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
3. Failed to equip the UST system at the Meyerland Shell Facility with overfill prevention equipment [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].
4. Failed to maintain the required UST records at the Westheimer Mobil Facility and make them immediately available for inspection at the request of agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
5. Failed to monitor the USTs at the Westheimer Mobil Facility for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondents have implemented the following corrective measures at the Meyerland Shell Facility:

- a. On August 3, 2011, obtained acceptable financial assurance;
- b. On September 13, 2011, submitted documentation to show that the UST records are being maintained and available for review; and
- c. On September 13, 2011, installed overfill prevention equipment.

**Executive Summary – Enforcement Matter – Case No. 42444  
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Docket No. 2011-1623-PST-E**

**Technical Requirements:**

The Order will require the Respondents to:

- a. Immediately, begin maintaining all UST records at the Westheimer Mobil Facility;
- b. Within 30 days, implement a release detection method for all USTs at the Westheimer Mobil Facility; and
- c. Within 45 days, submit written certification demonstrating compliance.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Michaelle Sherlock, Enforcement Division,  
Enforcement Team 2, MC R-13, (210) 403-4076; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Sam Zamer, President, WBZ LLC, 5270 Beechnut Street, Houston,  
Texas 77096

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

ICEQ

<b>DATES</b>	<b>Assigned</b>	29-Aug-2011	<b>Screening</b>	2-Sep-2011	<b>EPA Due</b>	
	<b>PCW</b>	2-Sep-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Sam Zamer and WBZ LLC dba Meyerland Shell		
<b>Reg. Ent. Ref. No.</b>	RN102437753		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	42444	<b>No. of Violations</b>	3
<b>Docket No.</b>	2011-1623-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Michaelle Sherlock
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

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

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  *\*Capped at the Total EB \$ Amount*

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 2-Sep-2011

Docket No. 2011-1623-PST-E

PCW

Respondent Sam Zamer and WBZ LLC dba Meyerland Shell

Policy Revision 2 (September 2002)

Case ID No. 42444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102437753

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaëlle Sherlock

### Compliance History Worksheet

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

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

**Adjustment Percentage (Subtotal 2)** 0%

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

No

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

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 2-Sep-2011

Docket No. 2011-1623-PST-E

PCW

Respondent Sam Zamer and WBZ LLC dba Meyerland Shell

Policy Revision 2 (September 2002)

Case ID No. 42444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102437753

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

Violation Number 1

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

Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum underground storage tanks ("USTs") at the Meyerland Shell Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (25%).

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 Number of violation days 182

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event. 'x' is marked in the 'single event' row.

Violation Base Penalty \$5,000

Two single events are recommended (one for each UST).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes The Respondents achieved compliance on August 3, 2011, prior to the Notice of Enforcement dated August 24, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$707

Violation Final Penalty Total \$4,071

This violation Final Assessed Penalty (adjusted for limits) \$4,071

## Economic Benefit Worksheet

**Respondent** Sam Zamer and WBZ LLC dba Meyerland Shell  
**Case ID No.** 42444  
**Req. Ent. Reference No.** RN102437753  
**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
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No commas or \$

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$660	30-Jan-2011	3-Aug-2011	1.42	\$47	\$660	\$707
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to provide financial assurance for two USTs for the six-month lapse in coverage.  
 The date required is the date coverage was no longer provided and the final date is the date of compliance.

Approx. Cost of Compliance

\$660

**TOTAL**

\$707

Screening Date 2-Sep-2011

Docket No. 2011-1623-PST-E

PCW

Respondent Sam Zamer and WBZ LLC dba Meyerland Shell

Policy Revision 2 (September 2002)

Case ID No. 42444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102437753

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

Violation Number 2

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

Violation Description Failed to maintain the required UST records at the Meyerland Shell Facility and make them immediately available for inspection at the request of 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 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

223 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.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes The Respondents achieved compliance on September 13, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$2,443

This violation Final Assessed Penalty (adjusted for limits) \$2,443

## Economic Benefit Worksheet

**Respondent** Sam Zamer and WBZ LLC dba Meyerland Shell

**Case ID No.** 42444

**Req. Ent. Reference No.** RN102437753

**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
<small>No commas or \$</small>							

### 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	2-Feb-2011	13-Sep-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

The delayed costs include the estimated amount to maintain required UST records. The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				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 2-Sep-2011

Docket No. 2011-1623-PST-E

PCW

Respondent Sam Zamer and WBZ LLC dba Meyerland Shell

Policy Revision 2 (September 2002)

Case ID No. 42444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102437753

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.51(b)(2)(C) and Tex. Water Code § 26.3475(c)(2)

Violation Description Failed to equip the UST system at the Meyerland Shell Facility with overfill prevention equipment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		x		

>> Programmatic Matrix

Matrix Notes	Falsification			Percent
	Major	Moderate	Minor	
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.				0%

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 223

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.

Good Faith Efforts to Comply

10.0% Reduction \$250

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

Notes The Respondents achieved compliance on September 13, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$49

Violation Final Penalty Total \$2,443

This violation Final Assessed Penalty (adjusted for limits) \$2,443

## Economic Benefit Worksheet

**Respondent** Sam Zamer and WBZ LLC dba Meyerland Shell  
**Case ID No.** 42444  
**Rea. Ent. Reference No.** RN102437753  
**Media** Petroleum Storage Tank  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment	\$1,148	2-Feb-2011	13-Sep-2011	0.61	\$2	\$47	\$49
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

Delayed costs include the actual amount to install overfill prevention devices in the UST system. The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,148

**TOTAL**

\$49



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	6-Sep-2011	<b>Screening</b>	9-Sep-2011	<b>EPA Due</b>	
	<b>PCW</b>	12-Sep-2011				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Sam Zamer and WBZ LLC dba Westheimer Mobil		
<b>Reg. Ent. Ref. No.</b>	RN102783420		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	42444	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-1623-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Michaelle Sherlock
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,500**

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

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

**Compliance History** 2.0% Enhancement **Subtotals 2, 3, & 7** **\$70**

Notes: Enhancement for one NOV with dissimilar violations.

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

Notes: The Respondents do not meet the culpability criteria.

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

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

Total EB Amounts: \$96  
 Approx. Cost of Compliance: \$2,000  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$3,570**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$3,570**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$3,570**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$714**

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

Notes:

Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$2,856**

Screening Date 9-Sep-2011

Docket No. 2011-1623-PST-E

PCW

Respondent Sam Zamer and WBZ LLC dba Westheimer Mobil

Policy Revision 2 (September 2002)

Case ID No. 42444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102783420

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

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) 2%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

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

Screening Date 9-Sep-2011

Docket No. 2011-1623-PST-E

PCW

Respondent Sam Zamer and WBZ LLC dba Westheimer Mobil

Policy Revision 2 (September 2002)

Case ID No. 42444

PCW Revision October 30, 2006

Reg. Ent. Reference No. RN102783420

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

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 at the Westheimer Mobil Facility and make them immediately available for inspection at the request of agency personnel.

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 Number of violation days 9

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

## Economic Benefit Worksheet

**Respondent** Sam Zamer and WBZ LLC dba Westheimer Mobil  
**Case ID No.** 42444  
**Reg. Ent. Reference No.** RN102783420  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	31-Aug-2011	1-May-2012	0.67	\$17	n/a	\$17
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

The delayed costs include the estimated amount to maintain required UST records. The date required is the record review date and the final date is the estimated date of compliance.

### Avoided Costs

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

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

\$17

Screening Date 9-Sep-2011

Docket No. 2011-1623-PST-E

PCW

Respondent Sam Zamer and WBZ LLC dba Westheimer Mobil

Policy Revision 2 (September 2002)

Case ID No. 42444

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102783420

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michaelle Sherlock

Violation Number 2

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

Violation Description

Failed to monitor the USTs at the Westheimer Mobil Facility for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

9 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation Final Penalty Total \$2,550

This violation Final Assessed Penalty (adjusted for limits) \$2,550

## Economic Benefit Worksheet

**Respondent** Sam Zamer and WBZ LLC dba Westheimer Mobil  
**Case ID No.** 42444  
**Req. Ent. Reference No.** RN102783420  
**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	Overtime Costs	EB Amount
<i>No commas or \$</i>							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,500	31-Aug-2011	1-Jun-2012	0.75	\$4	\$75	\$79
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

The delayed costs include the estimated amount to provide release detection for the UST system. The date required is the record review date and the final date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$79

### Compliance History

Customer/Respondent/Owner-Operator: CN601258932 ZAMER, SAM Classification: AVERAGE Rating: 0.26  
Regulated Entity: RN102437753 MEYERLAND SHELL Classification: HIGH Site Rating: 0.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 5050  
Location: 5270 BEECHNUT STREET, HOUSTON, HARRIS COUNTY, TEXAS  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: September 12, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 12, 2006 to September 12, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michaelle Sherlock Phone: (210) 403-4076

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OPR WBZ LLC, OWN Sam Zamer
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR B.E.Z., Inc.
5. When did the change(s) in owner or operator occur? 06/22/2007 OWNOPR B.E.Z., Inc.
6. Rating Date: 9/1/2011 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 | 10/06/2006 | (514422) |
| 2 | 05/20/2009 | (745255) |
| 3 | 08/24/2011 | (908002) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

### Compliance History

Customer/Respondent/Owner-Operator: CN603487869 WBZ LLC Classification: AVERAGE Rating: 0.26  
Regulated Entity: RN102783420 WESTHEIMER MOBIL Classification: AVERAGE Site Rating: 0.60  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 33038  
Location: 10146 WESTHEIMER RD, HOUSTON, TX, 77042  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: September 12, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 12, 2006 to September 12, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michaëlle Sherlock Phone: (210) 403-4076

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OPR WBZ LLC, OWN Sam Zamer
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR Mike Varcados and Anthony Varcados
5. When did the change(s) in owner or operator occur? 08/25/2007 OWNOPR Mike Varcados and Anthony Varcados
6. Rating Date: 9/1/2011 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 | 08/11/2009 | (765227) |
| 2 | 01/18/2011 | (887639) |
| 3 | 08/31/2011 | (900612) |
| 4 | 05/20/2011 | (920867) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |                 |   |          |             |
|-----------------|---|----------|-------------|
| Date:           | 01/18/2011  | (887639) | CN603487869 |
| Self Report?    | NO  |          |             |
| Citation:       | 30 TAC Chapter 115, SubChapter C 115.242(3)   |          |             |
| Description:    | 30 TAC Section 115.242 (3) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. |          |             |
| Classification: | Moderate  |          |             |
- 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

Customer/Respondent/Owner-Operator: CN603487869 WBZ LLC Classification: AVERAGE Rating: 0.26  
Regulated Entity: RN102437753 MEYERLAND SHELL Classification: HIGH Site Rating: 0.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 5050  
Location: 5270 BEECHNUT STREET, HOUSTON, HARRIS COUNTY, TEXAS  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: September 12, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 12, 2006 to September 12, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michaelle Sherlock Phone: (210) 403-4076

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OPR WBZ LLC, OWN Sam Zamer
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR B.E.Z., Inc.
5. When did the change(s) in owner or operator occur? 06/22/2007 OWNOPR B.E.Z., Inc.
6. Rating Date: 9/1/2011 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 | 10/06/2006 | (514422) |
| 2 | 05/20/2009 | (745255) |
| 3 | 08/24/2011 | (908002) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

### Compliance History

Customer/Respondent/Owner-Operator: CN601258932 ZAMER, SAM Classification: AVERAGE Rating: 0.26  
Regulated Entity: RN102783420 WESTHEIMER MOBIL Classification: AVERAGE Site Rating: 0.60  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 33038  
Location: 10146 WESTHEIMER RD, HOUSTON, HARRIS COUNTY, TX  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: September 12, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 12, 2006 to September 12, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michaelle Sherlock Phone: (210) 403-4076

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OPR WBZ LLC, OWN Sam Zamer
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR Mike Varcados and Anthony Varcados
5. When did the change(s) in owner or operator occur? 08/25/2007 OWNOPR Mike Varcados and Anthony Varcados
6. Rating Date: 9/1/2011 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 | 08/11/2009 | (765227) |
| 2 | 01/18/2011 | (887639) |
| 3 | 08/31/2011 | (900612) |
| 4 | 05/20/2011 | (920867) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |                          |
|--------------|---|--------------------------|
| Date:        | 01/18/2011 (887639)   | CN601258932              |
| Self Report? | NO  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)   |                          |
| Description: | 30 TAC Section 115.242 (3) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the 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



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	
<b>SAM ZAMER AND WBZ LLC DBA</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>MEYERLAND SHELL AND</b>	<b>§</b>	
<b>WESTHEIMER MOBIL</b>	<b>§</b>	
<b>RN102437753 AND RN102783420</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER**  
**DOCKET NO. 2011-1623-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Sam Zamer and WBZ LLC dba Meyerland Shell and Westheimer Mobil ("the Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondents appear before the Commission and together stipulate that:

1. The Respondents own and operate convenience stores with retail sales of gasoline at the following locations (the "Facilities"):
  - a. Meyerland Shell, located at 5270 Beechnut Street in Houston, Harris County, Texas (the "Meyerland Shell Facility"); and
  - b. Westheimer Mobil, located at 10146 Westheimer Road in Houston, Harris County, Texas (the "Westheimer Mobil Facility").
2. The Respondents' five underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondents agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondents are subject to the Commission's jurisdiction.
4. The Respondents received notice of the violations alleged in Section II ("Allegations") on or about August 29, 2011 and September 5, 2011.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twelve Thousand Five Hundred Twenty-Seven Dollars (\$12,527) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondents have paid Five Thousand Eleven Dollars (\$5,011) of the administrative penalty and Two Thousand Five Hundred Five Dollars (\$2,505) is deferred contingent upon the Respondents' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondents fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondents to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Eleven Dollars (\$5,011) of the administrative penalty shall be payable in one payment of Five Thousand Eleven Dollars (\$5,011). The next payment shall be paid within 30 days after the effective date of this Agreed Order. If the Respondents fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondents to meet the payment schedule of this Agreed Order constitutes the failure by the Respondents to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondents have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondents have implemented the following corrective measures at the Meyerland Shell Facility:
  - a. On August 3, 2011, obtained acceptable financial assurance;
  - b. On September 13, 2011, submitted documentation to show that the UST records are being maintained and available for review; and
  - c. On September 13, 2011, installed overfill prevention equipment.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondents have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

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

## II. ALLEGATIONS

As owner and operator of the Facilities, the Respondents are alleged to have:

1. Failed to demonstrate acceptable financial assurance for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs at the Meyerland Shell Facility, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on February 2, 2011.
2. Failed to maintain the required UST records at the Meyerland Shell Facility and make them immediately available for inspection at the request of agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on February 2, 2011.
3. Failed to equip the UST system at the Meyerland Shell Facility with overfill prevention equipment, in violation of 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on February 2, 2011.
4. Failed to maintain the required UST records at the Westheimer Mobil Facility and make them immediately available for inspection at the request of agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during a record review conducted on August 31, 2011.
5. Failed to monitor the USTs at the Westheimer Mobil Facility for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during a record review conducted on August 31, 2011.

## III. DENIALS

The Respondents generally deny each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondents pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondents' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Sam Zamer and WBZ LLC dba Meyerland Shell and Westheimer Mobil, Docket No. 2011-1623-PST-E" to:

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

2. The Respondents are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.
3. It is further ordered that the Respondents shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, begin maintaining all UST records at the Westheimer Mobil Facility, in accordance with 30 TEX. ADMIN. CODE § 334.10;
  - b. Within 30 days after the effective date of this Agreed Order, implement a release detection method for all USTs at the Westheimer Mobil Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
  - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. and 3.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondents. The Respondents are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facilities' operations referenced in this Agreed Order.
5. If the 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, the Respondents' failure to comply is not a violation of this Agreed Order. The Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondents shall notify the Executive Director within seven days after the Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondents shall be made in writing to the Executive Director. Extensions are not effective until the Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondents, or three days after the date on which the Commission mails notice of the Order to the 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

*R. D. Ayala*  
For the Executive Director

3/2/12  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

*Denjar*  
Signature

12/20/11  
Date

SAM ZAMER  
Name (Printed or typed)  
Authorized Representative of  
WBZ LLC dba Meyerland Shell and Westheimer Mobil

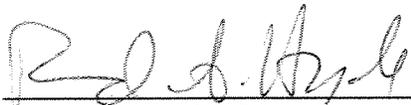
President  
Title

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

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



\_\_\_\_\_  
For the Executive Director

3/2/12  
\_\_\_\_\_  
Date

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\_\_\_\_\_  
Signature

12/20/11  
\_\_\_\_\_  
Date

SAM ZAMER  
\_\_\_\_\_  
Name (Printed or typed)

President  
\_\_\_\_\_  
Title

Authorized Representative of  
Sam Zamer dba Meyerland Shell and Westheimer Mobil

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