

Executive Summary – Enforcement Matter – Case No. 42078
CJY INVESTMENTS, L.L.C. D/B/A BEVERAGE PALACE
RN102886405
Docket No. 2011-1199-PST-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
2750 East President George Bush Highway, Richardson, Collin County

Type of Operation:
underground storage tank ("UST") system and a 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: March 16, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$16,511

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$16,511

Compliance History Classifications:
Person/CN – High
Site/RN – High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Docket No. 2011-1199-PST-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: May 25, 20115
Date(s) of NOV(s): N/A
Date(s) of NOE(s): June 21, 2011

Violation Information

1. Failed to verify proper operation of the Stage II equipment at least once every twelve months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(1), (5) and (7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
5. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
6. Failed to maintain spill and overfill records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE §§ 334.10(b) and 334.51(c)].
7. Failed to notify the agency of the change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].
8. Failed to demonstrate 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 [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
9. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid or debris [30 TEX. ADMIN. CODE § 334.42(i)].
10. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to provide proper release detection for the piping associated with the USTs; failed to test the line leak detectors at least once per year for performance and operational reliability; failed to provide release detection for the UST system by failing to conduct reconciliation of inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a) and (c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Successfully conducted annual piping tightness and line leak detector testing on June 2, 2011 (Violation 10);
2. Implemented automatic tank gauging as a release detection method for the USTs on June 2, 2011 (Violation 10); and
3. The USTs were emptied and registered as temporarily out of service with the TCEQ on September 15, 2011 (Violations 1 through 9).

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: December 6, 2011

Date(s) Green Card(s) Signed: Unclaimed

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

Contact Information

TCEQ Attorneys: Xavier Guerra, Litigation Division, (210) 403-4016
Lena Roberts, Litigation Division, (512) 239-3400
Scott Humphrey, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Philip Aldridge, Waste Enforcement Section, (512) 239-0855

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903

Respondent: Chun W. Chung, Member, CJY Investments, L.L.C., 2750 East George Bush Highway, Richardson, Texas 75082

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	27-Jun-2011	Screening	11-Jul-2011	EPA Due	
	PCW	7-Oct-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	CJY Investments, L.L.C. dba Beverage Palace		
Reg. Ent. Ref. No.	RN102886405		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	42078	No. of Violations	10
Docket No.	2011-1199-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Philip Aldridge
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$14,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Reduction	Subtotals 2, 3, & 7	-\$1,400
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,559	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,538	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	31.0%	Adjustment	\$3,911
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement to capture the avoided cost of compliance associated with violation nos. 1, 3, 8, 9 and 10. Because this is a Default Order, the Executive Director recommends an upward adjustment to offset the reduction for compliance history.
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Final Penalty Amount	\$16,511
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,511
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$16,511
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Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip Aldridge

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)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip Aldridge

Violation Number 1

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

Violation Description Failed to verify proper operation of the Stage II equipment at least once every twelve months. Specifically, the Respondent did not conduct the annual Stage II test by the due date of March 26, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					25%
Potential	x				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 60 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$2,500

One annual event is recommended for the period preceding the 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 Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$527

Violation Final Penalty Total \$2,948

This violation Final Assessed Penalty (adjusted for limits) \$2,948

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
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				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	26-Mar-2011	25-May-2011	1.08	\$27	\$500	\$527
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for annual testing to verify proper operation of the Stage II equipment. The Date Required is the date the test was due and the Final Date is the investigation date.

Approx. Cost of Compliance \$500

TOTAL \$527

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Phillip Aldridge

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.246(1), (5) and (7)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, copies of the California Air Resources Board ("CARB") Executive Order and Stage II test results were not available.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

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 47 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,179

This violation Final Assessed Penalty (adjusted for limits) \$1,179

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
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
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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	\$500	25-May-2011	15-Sep-2011	0.31	\$8	n/a	\$8
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. The Date Required is the investigation date and the Final Date is the date the UST system was taken out of service.

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

\$8

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Phillip Aldridge

Violation Number 3

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

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

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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 the environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 47 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the May 25, 2011 investigation date to the July 11, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$368

Violation Final Penalty Total \$1,179

This violation Final Assessed Penalty (adjusted for limits) \$1,179

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$350	25-Apr-2011	25-May-2011	1.00	\$18	\$350	\$368
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct the required daily and monthly inspections of the components of the Stage II vapor recovery system. The Date Required is one month prior to the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance \$350

TOTAL \$368

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Phillip Aldridge

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 115.242(9) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

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 Number of violation days 47

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$1,000

One quarterly event is recommended from the May 25, 2011 investigation date to the July 11, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Effort (Extraordinary, Ordinary, N/A), Reduction (Before NOV, NOV to EDPRP/Settlement Offer).

Notes The Respondent does 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 \$1

Violation Final Penalty Total \$1,179

This violation Final Assessed Penalty (adjusted for limits) \$1,179

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
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				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)	\$50	25-May-2011	15-Sep-2011	0.31	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to post operating instructions on the dispensers. The Date Required is the investigation date and the Final Date is the date the UST system was taken out of service.

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

\$50

TOTAL

\$1

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Phillip Aldridge

Violation Number 5

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

Violation Description Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system.

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 Number of violation days 47

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$1,000

One quarterly event is recommended from the May 25, 2011 investigation date to the July 11, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table with columns: Effort (Extraordinary, Ordinary, N/A), Reduction (Before NOV, NOV to EDPRP/Settlement Offer).

Notes The Respondent does 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 \$8

Violation Final Penalty Total \$1,179

This violation Final Assessed Penalty (adjusted for limits) \$1,179

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
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	\$500	25-May-2011	15-Sep-2011	0.31	\$8	n/a	\$8
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of training a Stage II Station representative. The Date Required is the investigation date and the Final Date is the date the UST system was taken out of service.

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

\$8

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Phillip Aldridge

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code §§ 334.10(b) and 334.51(c)

Violation Description Failed to maintain spill and overfill records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 47 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$1,179

This violation Final Assessed Penalty (adjusted for limits) \$1,179

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
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				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	25-May-2011	15-Sep-2011	0.31	\$8	n/a	\$8
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 spill and overfill control records. The Date Required is the investigation date and the Final Date is the date the UST system was taken out of service.

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

\$8

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Phillip Aldridge

Violation Number 7

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

Violation Description Failed to notify the agency of the change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current method of release detection for the USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

		1	47	Number of violation days
mark only one with an x	daily			Violation Base Penalty \$1,000
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event		x	

One single event is recommended.

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2 Violation Final Penalty Total \$1,179

This violation Final Assessed Penalty (adjusted for limits) \$1,179

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
Media Petroleum Storage Tank
Violation No. 7

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	25-May-2011	15-Sep-2011	0.31	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the investigation date and the Final Date is the date the UST system was taken out of service.

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

\$2

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip Aldridge

Violation Number 8

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 for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

		2	233	Number of violation days
mark only one with an x	daily			Violation Base Penalty \$2,000
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event		x	

Two single events are recommended for the two USTs at the Station.

Good Faith Efforts to Comply

	0.0%	Reduction	\$0
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary			
N/A	x	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,386 Violation Final Penalty Total \$2,359

This violation Final Assessed Penalty (adjusted for limits) \$2,359

Economic Benefit Worksheet

Respondent C/JY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
Media Petroleum Storage Tank
Violation No. 8

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]	\$1,320	20-Nov-2010	25-May-2011	1.00	\$66	\$1,320	\$1,386
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for two petroleum USTs (\$660 per tank). The Date Required is the date the financial assurance was canceled and the Final Date is the investigation date.

Approx. Cost of Compliance

\$1,320

TOTAL

\$1,386

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Phillip Aldridge

Violation Number 9

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

Violation Description Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid or debris. Specifically, the spill 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 47 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 May 25, 2011 investigation date to the July 11, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105 Violation Final Penalty Total \$1,179

This violation Final Assessed Penalty (adjusted for limits) \$1,179

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
Media Petroleum Storage Tank
Violation No. 9

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	26-Mar-2011	25-May-2011	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to clean out the spill buckets and conduct bimonthly inspections of the sumps, manways, overspill containers or catchment basins. The Date Required is 60 days prior to the investigation and the Final Date is the investigation date.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Screening Date 11-Jul-2011

Docket No. 2011-1199-PST-E

PCW

Respondent CJY Investments, L.L.C. dba Beverage Palace

Policy Revision 2 (September 2002)

Case ID No. 42078

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102886405

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Philip Aldridge

Violation Number 10

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

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Failed to provide proper release detection for the piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test by the due date of March 26, 2011. Failed to test the line leak detectors at least once per year for performance and operational reliability. Also, failed to provide release detection for the UST system by failing to conduct reconciliation of inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 47

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the May 25, 2011 investigation date to the July 11, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$148

Violation Final Penalty Total \$2,948

This violation Final Assessed Penalty (adjusted for limits) \$2,948

Economic Benefit Worksheet

Respondent CJY Investments, L.L.C. dba Beverage Palace
Case ID No. 42078
Req. Ent. Reference No. RN102886405
Media Petroleum Storage Tank
Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	25-May-2011	15-Sep-2011	0.31	\$23	n/a	\$23

Notes for DELAYED costs

Estimated cost to provide release detection for the UST system including volume measurement and reconciliation of inventory control records. The Date Required is the investigation date and the final date is the date the UST system was taken out of service.

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]	\$118	26-Mar-2011	2-Jun-2011	1.10	\$7	\$118	\$125
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct the required piping tightness and line leak detector testing. The Date Required is the test due date and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,618

TOTAL

\$148

Compliance History

Customer/Respondent/Owner-Operator: CN603562604 CJY INVESTMENT LLC Classification: HIGH Rating: 0.00
Regulated Entity: RN102886405 Beverage Palace Classification: HIGH Site Rating: 0.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 74491
Location: 2750 E PRESIDENT GEORGE BUSH HWY, RICHARDSON, TX, 75082
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: July 08, 2011

Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 08, 2006 to July 08, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Philip Aldridge Phone: (512) 239-0855

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? OWN CJY INVESTMENT LLC
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN Quik-Way Foods of Dallas, Inc.
5. When did the change(s) in owner or operator occur? 05/01/2008 OWN Quik-Way Foods of Dallas, Inc.
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 04/04/2007 (554363)
 - 2 06/21/2011 (922580)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CJY INVESTMENTS, L.L.C.
D/B/A BEVERAGE PALACE;
RN102886405**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-1199-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is CJY Investments, L.L.C. d/b/a Beverage Palace ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a store with retail sales of gasoline located at 2750 East President George Bush Highway in Richardson, Collin County, Texas (the "Station"). The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on May 25, 2011, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to verify proper operation of the Stage II equipment at least once every twelve months. Specifically, Respondent did not conduct the annual Stage II test by the due date of March 26, 2011;
 - b. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, copies of the California Air Resources Board ("CARB") Executive Order and Stage II test results were not available;
 - c. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system;
 - d. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system;

- e. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system;
 - f. Failed to maintain spill and overfill records and make them immediately available for inspection upon request by agency personnel;
 - g. Failed to notify the agency of the change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current method of release detection for the USTs;
 - h. Failed to demonstrate 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;
 - i. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid or debris. Specifically, the spill buckets contained liquid and debris; and
 - j. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to provide proper release detection for the piping associated with the USTs (specifically, the annual piping tightness test was not conducted by the due date of March 26, 2011); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to provide release detection for the UST system by failing to conduct reconciliation of inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.
3. Respondent received notice of the violations on or about June 26, 2011.
 4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Station:
 - a. Successfully conducted annual piping tightness and line leak detector testing on June 2, 2011 (Conclusion of Law No. 11);
 - b. Implemented automatic tank gauging as a release detection method for the USTs on June 2, 2011 (Conclusion of Law No. 11); and
 - c. The USTs were emptied and registered as temporarily out of service with the TCEQ on September 15, 2011 (Conclusions of Law Nos. 2 through 10).

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against CJY Investments, L.L.C. d/b/a Beverage Palace" (the "EDPRP") in the TCEQ Chief Clerk's office on December 6, 2011.
6. By letter dated December 6, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to verify proper operation of the Stage II equipment at least once every twelve months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(1), (5) and (7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to maintain spill and overfill records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE §§ 334.10(b) and 334.51(c).

8. As evidenced by Finding of Fact No. 2.g., Respondent failed to notify the agency of the change or additional information regarding the UST system within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
9. As evidenced by Finding of Fact No. 2.h., Respondent failed to demonstrate 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, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
10. As evidenced by Finding of Fact No. 2.i., Respondent 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, in violation of 30 TEX. ADMIN. CODE § 334.42(i).
11. As evidenced by Finding of Fact No. 2.j., Respondent failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to provide proper release detection for the piping associated with the USTs; failed to test the line leak detectors at least once per year for performance and operational reliability; failed to provide release detection for the UST system by failing to conduct reconciliation of inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a) and (c)(1).
12. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
13. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
14. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent 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.
15. An administrative penalty in the amount of sixteen thousand five hundred eleven dollars (\$16,511.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

16. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of sixteen thousand five hundred eleven dollars (\$16,511.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: CJY Investments, L.L.C. d/b/a Beverage Palace; Docket No. 2011-1199-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
3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF XAVIER GUERRA

STATE OF TEXAS

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COUNTY OF BEXAR

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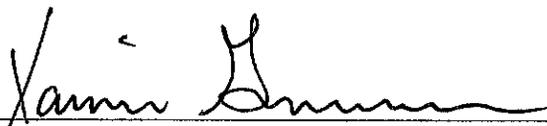
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"My name is Xavier Guerra. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Against CJY Investments, L.L.C. d/b/a Beverage Palace" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 6, 2011.

The EDPRP was mailed to Respondent's last known address on December 6, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Xavier Guerra, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Xavier Guerra, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 24th day of February A.D. 2012.



Notary Signature

