

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 42017
JUAN MEZA DBA ODESSA TRUCK STOP
RN102353117
Docket No. 2011-1129-PST-E

Order Type:

Agreed Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

5934 West Interstate 20, Odessa, Ector County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

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

Texas Register Publication Date: February 15, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$28,234

Total Paid to General Revenue: \$7,234

Total Due to General Revenue: \$21,000

Payment Plan: 3 payments of \$7,000 each

Compliance History Classifications:

Person/CN – not rated
Site/RN – not rated

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 17, 2011; June 14, 2011

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

Date(s) of NOE(s): June 14, 2011

Violation Information

1. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [TEX. WATER CODE § 26.3467 and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].
2. Failed to notify the Executive Director of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change [30 TEX. ADMIN. CODE § 334.7(d)(3)].
3. Failed to obtain a UST delivery certificate by submitting a properly completed new UST registration and self-certification form at least 30 days prior to the ownership change [30 TEX. ADMIN. CODE § 334.8(c)(4)(C)].
4. 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)].
5. Failed to provide proper corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1)].
6. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
7. Failed to provide a method of release detection for the piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Submitted a UST registration and self-certification form reflecting current ownership and operator information on August 23, 2011;
2. Obtained financial assurance for the UST system located at the Facility on March 18, 2011; and
3. Installed a new rectifier and repaired and anode wiring on August 23, 2011.

Technical Requirements:

1. Immediately cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form.
2. Within 15 days, submit written certification to demonstrate compliance with Technical Requirement No. 1.
3. Within 30 days:
 - a. Install and implement a release detection method for all USTs at the Facility; and
 - b. Begin conducting annual piping tightness tests and line leak detector tests for the piping associated with the Facility's UST system.
4. Within 45 days, submit written certification to demonstrate compliance with Technical Requirement No. 3.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 42017
JUAN MEZA DBA ODESSA TRUCK STOP
RN102353117
Docket No. 2011-1129-PST-E

Litigation Information

Date Petition(s) Filed: April 18, 2012
Date Answer(s) Filed: May 19, 2012
SOAH Referral Date: July 17, 2012
Hearing Date(s):
Preliminary hearing: September 6, 2012
Evidentiary hearing: January 23, 2013 (scheduled)
Settlement Date: January 7, 2013

Contact Information

TCEQ Attorneys: Rudy Calderon, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Scott Murphy, Public Interest Counsel, (512) 239-6363
TCEQ SEP Coordinator: N/A
TCEQ Enforcement Coordinator: Jason Fraley, Enforcement Division, (512) 239-2552
TCEQ Regional Contact: Michael Edminston, Midland Regional Office, (915) 534-4949
Respondent: Juan Meza, 5934 West Interstate 20, Odessa, Texas 79763
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	20-Jun-2011		
	PCW	29-Mar-2012	Screening	27-Jun-2011
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Juan Meza dba Odessa Truck Stop		
Reg. Ent. Ref. No.	RN102353117		
Facility/Site Region	7-Midland	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42017	No. of Violations	5
Docket No.	2011-1129-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Linson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$28,500
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No enhancement for compliance history.
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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	\$4,125
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$3,991	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,618	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$24,375
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OTHER FACTORS AS JUSTICE MAY REQUIRE	15.8%	Adjustment	\$3,859
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Enhancement for the recovery of avoided costs associated with Violation Nos. 2, 3, and 5.
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Final Penalty Amount	\$28,234
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$28,234
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$28,234
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Screening Date 27-Jun-2011

Docket No. 2011-1129-PST-E

PCW

Respondent Juan Meza dba Odessa Truck Stop

Policy Revision 2 (September 2002)

Case ID No. 42017

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102353117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Linson

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 enhancement for compliance history.

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

Screening Date	27-Jun-2011	Docket No.	2011-1129-PST-E	PCW
Respondent	Juan Meza dba Odessa Truck Stop	Policy Revision 2 (September 2002)		
Case ID No.	42017	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN102353117			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Andrea Linson			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467			
Violation Description	Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the underground storage tanks ("USTs"). Specifically, one fuel delivery was accepted without a delivery certificate.			
Base Penalty	\$10,000			
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential			x
				Percent 10%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent 0%
Matrix Notes	Failure to have a valid and current TCEQ delivery certificate could result in exposure to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.			
	Adjustment	\$9,000		
\$1,000				
Violation Events				
	Number of Violation Events	1	13	Number of violation days
<i>mark only one with an x</i>	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	\$0		
	Violation Final Penalty Total	\$1,158		
	This violation Final Assessed Penalty (adjusted for limits)	\$1,158		

Economic Benefit Worksheet

Respondent Juan Meza dba Odessa Truck Stop
Case ID No. 42017
Reg. Ent. Reference No. RN102353117
Media Violation No. 1
Media Petroleum Storage Tank

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

Economic benefit calculated in Violation No. 2.

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 \$0

TOTAL \$0

Screening Date 27-Jun-2011
Respondent Juan Meza dba Odessa Truck Stop
Case ID No. 42017
Reg. Ent. Reference No. RN102353117
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Andrea Linson

Docket No. 2011-1129-PST-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 334.7(d)(3) and 334.8(c)(4)(C)

Violation Description

Failed to notify the Executive Director of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change, and failed to obtain a UST delivery certificate by submitting a properly completed new UST registration and self-certification form at least 30 days prior to the ownership change. Specifically, the Respondent assumed ownership of the Facility on September 3, 2009. However, the Respondent did not update the UST registration to reflect the current owner and operator information and a delivery certificate was not obtained.

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			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 13 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$5,000

Two single events are recommended, based on one event for each citation.

Good Faith Efforts to Comply

10.0% Reduction

\$500

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

Notes

The Respondent achieved compliance on August 23, 2011.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$117

Violation Final Penalty Total \$5,212

This violation Final Assessed Penalty (adjusted for limits) \$5,212

Economic Benefit Worksheet

Respondent Juan Meza dba Odessa Truck Stop
Case ID No. 42017
Reg. Ent. Reference No. RN102353117
Media Violation No. Petroleum Storage Tank
 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	\$100	14-Jun-2011	31-Jan-2012	0.63	\$3	n/a	\$3
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 estimated delayed cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form, calculated from the record review date to 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]	\$100	4-Aug-2009	27-Jun-2011	2.81	\$14	\$100	\$114
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs: The estimated avoided cost to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate, calculated from 30 days prior to the ownership change date to the screening date.

Approx. Cost of Compliance \$200

TOTAL \$117

Screening Date 27-Jun-2011

Docket No. 2011-1129-PST-E

PCW

Respondent Juan Meza dba Odessa Truck Stop

Policy Revision 2 (September 2002)

Case ID No. 42017

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102353117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Linson

Violation Number 3

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		
	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 5

13 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$12,500

Four single events are recommended, based on one event per tank.

Good Faith Efforts to Comply

25.0% Reduction

\$3,125

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

Notes

The Respondent achieved compliance as of March 18, 2011.

Violation Subtotal \$9,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,577

Violation Final Penalty Total \$10,859

This violation Final Assessed Penalty (adjusted for limits) \$10,859

Economic Benefit Worksheet

Respondent Juan Meza dba Odessa Truck Stop
Case ID No. 42017
Reg. Ent. Reference No. RN102353117
Media 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
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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]	\$3,300	14-Jun-2010	18-Mar-2011	1.68	\$277	\$3,300	\$3,577
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated avoided cost to provide financial assurance for four petroleum USTs (\$660 per tank for five tanks), calculated from one year prior to the date of investigation.

Approx. Cost of Compliance \$3,300

TOTAL \$3,577

Screening Date 27-Jun-2011

Docket No. 2011-1129-PST-E

PCW

Respondent Juan Meza dba Odessa Truck Stop

Policy Revision 2 (September 2002)

Case ID No. 42017

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102353117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Linson

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to provide proper corrosion protection for the UST system. Specifically, the rectifier box was not working and the wires to the anode tuning box were disconnected and exposed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> 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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1

13 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One monthly event is recommended, calculated from the record review date, June 14, 2011, to the screening date, June 27, 2011.

Good Faith Efforts to Comply

10.0% Reduction

\$500

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

Notes The Respondent achieved compliance August 23, 2011.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$84

Violation Final Penalty Total \$5,212

This violation Final Assessed Penalty (adjusted for limits) \$5,212

Economic Benefit Worksheet

Respondent Juan Meza dba Odessa Truck Stop
Case ID No. 42017
Reg. Ent. Reference No. RN102353117
Media Violation No. 4
 Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$1,500	14-Jun-2011	31-Mar-2012	0.80	\$4	\$80	\$84
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

The delayed cost includes the estimated amount to provide corrosion protection for the UST system, calculated from the record review date to 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

\$84

Screening Date 27-Jun-2011

Docket No. 2011-1129-PST-E

PCW

Respondent Juan Meza dba Odessa Truck Stop

Policy Revision 2 (September 2002)

Case ID No. 42017

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102353117

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Linson

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and 334.50(b)(2) 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), and failed to provide a method of release detection for the piping associated with the UST system. Specifically, the annual piping tightness test and line leak detector test had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> 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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1

13 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One monthly event is recommended, calculated from the record review date, June 14, 2011, to the screening date, June 27, 2011.

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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$213

Violation Final Penalty Total \$5,792

This violation Final Assessed Penalty (adjusted for limits) \$5,792

Economic Benefit Worksheet

Respondent Juan Meza dba Odessa Truck Stop
Case ID No. 42017
Reg. Ent. Reference No. RN102353117
Media Violation No. Petroleum Storage Tank
 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)	\$1,500	14-Jun-2011	31-Mar-2012	0.80	\$4	\$80	\$84
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 cost includes the estimated amount to provide release detection for the USTs, calculated from the record review date to 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]	\$118	14-Jun-2010	14-Jun-2011	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct the annual piping tightness and line leak detector testing, calculated for one year prior to the record review date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$213

Compliance History

Customer/Respondent/Owner-Operator: CN603850538 JUAN MEZA Classification: Rating:
Regulated Entity: RN102353117 ODESSA TRUCK STOP Classification: Site Rating:
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 27456
Location: 5934 WEST INTERSTATE 20, ODESSA, ECTOR COUNTY, TEXAS
TCEQ Region: REGION 07 - MIDLAND
Date Compliance History Prepared: June 27, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 27, 2006 to June 27, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Andrea Linson Phone: (512) 239-1482

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? JUAN MEZA
4. If Yes, who was/were the prior owner(s)/operator(s)? FFP OPERATING PARTNERS LP
5. When did the change(s) in owner or operator occur? SEPTEMBER 3, 2009

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 06/14/2011 (932996)
 - 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
JUAN MEZA DBA
ODESSA TRUCK STOP;
RN102353117**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2011-1129-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Juan Meza d/b/a Odessa Truck Stop ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

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 convenience store with retail sales of gasoline located at 5934 West Interstate 20 in Odessa, Ector County, Texas (the "Facility"). The USTs at the Facility 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.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twenty-eight thousand two hundred thirty-four dollars (\$28,234.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid seven thousand two hundred thirty-four dollars (\$7,234.00) of the administrative penalty. The remaining amount of twenty-one thousand dollars (\$21,000.00) of the administrative penalty shall be payable in three (3) monthly payments of seven thousand dollars (\$7,000.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the

- maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.
6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
 7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 8. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. Submitted a UST registration and self-certification form reflecting current ownership and operator information on August 23, 2011 (Allegation No. 1.b.);
 - b. Obtained financial assurance for the UST system located at the Facility on March 18, 2011 (Allegation No. 1.d.); and
 - c. Installed a new rectifier and repaired the anode wiring on August 23, 2011 (Allegation No. 1.e.).
 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on March 17, 2011, and a record review conducted on June 14, 2011, a UT-Arlington Petroleum Storage Tank Program investigator documented that Respondent:
 - a. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of TEX. WATER CODE § 26.3467 and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i). Specifically, one fuel delivery was accepted without a delivery certificate;
 - b. Failed to notify the Executive Director of any change or additional information regarding USTs within 30 days from the date of the occurrence of the change,

in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3). Specifically, Respondent assumed ownership of the Facility on September 3, 2009, and did not update the UST registration to reflect the current owner and operator information;

- c. Failed to obtain a UST delivery certificate by submitting a properly completed new UST registration and self-certification form at least 30 days prior to the ownership change, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(C). Specifically, Respondent assumed ownership of the Facility on September 3, 2009, but did not obtain a new delivery certificate;
 - d. 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);
 - e. Failed to provide proper corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1). Specifically, the rectifier box was not working and the wires to the anode tuning box were disconnected and exposed;
 - f. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A); and
 - g. Failed to provide a method of release detection for the piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2). Specifically, the annual piping tightness test and line leak detector test had not been conducted.
2. Respondent received notice of the violations on or about June 19, 2011.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Juan Meza d/b/a Odessa Truck Stop, Docket No. 2011-1129-PST-E" to:

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

2. Respondent shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Agreed Order, Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8;
 - b. Within 15 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.e. below, to demonstrate compliance with Ordering Provision No. 2.a.;
 - c. Within 30 days after the effective date of this Agreed Order, Respondent shall;
 - i. Install and implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - ii. Begin conducting annual piping tightness tests and line leak detector tests for the piping associated with the Facility's UST system, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - d. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification, in accordance with Ordering Provision No. 2.e. below, to demonstrate compliance with Ordering Provisions Nos. 2.c.i. and 2.c.ii.
 - e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Michael Edmiston, Waste Section Manager
Texas Commission on Environmental Quality
Midland Regional Office
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 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. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

Juan Meza d/b/a Odessa Truck Stop
Docket No. 2011-1129-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]

For the Executive Director

February 25, 2013

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Juan Meza d/b/a Odessa Truck Stop, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Juan Meza

Juan Meza

1/7/13

Date