

Executive Summary – Enforcement Matter – Case No. 48118
BUDGET RENT-A-CAR OF EL PASO, INC.
RN102590932
Docket No. 2014-0061-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Budget Rent-A-Car, 6510 De Havilland Drive, El Paso, El Paso County

Type of Operation:

Fleet refueling facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 25, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,748

Amount Deferred for Expedited Settlement: \$1,949

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$239

Total Due to General Revenue: \$7,560

Payment Plan: 35 payments of \$216 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 48118
BUDGET RENT-A-CAR OF EL PASO, INC.
RN102590932
Docket No. 2014-0061-PST-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: November 19, 2013

Date(s) of NOE(s): December 10, 2013

Violation Information

1. Failed to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the prior UST delivery certificate expired on May 31, 2011 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, fuel deliveries were accepted without a delivery certificate on February 13, 2013, March 22, 2013, May 1, 2013, August 8, 2013, and September 12, 2013 [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
3. Failed to operate and maintain the UST system in a manner that will prevent releases of regulated substances. Specifically, the UST tight-fill top-seal cap did not seal tightly [30 TEX. ADMIN. CODE § 334.48(a)].
4. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, financial assurance and statistical inventory reconciliation ("SIR") records for June and October 2013 were not available [30 TEX. ADMIN. CODE § 334.10(b)(2)(A)(ii) and (b)(2)(B)(vi)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. Obtained a valid, current delivery certificate by submitting a properly completed UST registration and self-certification form on December 12, 2013;
- b. Replaced the tight-fill top-seal cap on December 6, 2013; and
- c. Provided SIR records for June and October 2013 by January 10, 2014.

Executive Summary – Enforcement Matter – Case No. 48118
BUDGET RENT-A-CAR OF EL PASO, INC.
RN102590932
Docket No. 2014-0061-PST-E

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: John Fennell, Enforcement Division,
Enforcement Team 7, MC 128, (512) 239-2616; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Michael Maloney, President, BUDGET RENT-A-CAR OF EL PASO,
INC., 430 Sandau Road, San Antonio, Texas 78216

Neal Remz, General Manager, BUDGET RENT-A-CAR OF EL PASO, INC., 430 Sandau
Road, San Antonio, Texas 78216

Respondent's Attorney: Stewart Alexander, 8018 Broadway, Suite 101, San Antonio,
Texas 78209



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 6-Jan-2014 | Screening | 13-Jan-2014 | EPA Due | |
| | PCW | 13-Jan-2014 | | | | |

| | |
|--|------------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | BUDGET RENT-A-CAR OF EL PASO, INC. |
| Reg. Ent. Ref. No. | RN102590932 |
| Facility/Site Region | 6-El Paso |
| Major/Minor Source | Minor |

| | | | |
|---------------------------------|------------------------|-----------------------|--------------------|
| CASE INFORMATION | | No. of Violations | 1 |
| Enf./Case ID No. | 48118 | | Order Type |
| Docket No. | 2014-0061-PST-E | Government/Non-Profit | No |
| Media Program(s) | Petroleum Storage Tank | Enf. Coordinator | John Fennell |
| Multi-Media | | 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* **\$3,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **20.0%** Enhancement *Subtotals 2, 3, & 7* **\$600**

Notes: Enhancement for one order with denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **-\$300**

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

Total EB Amounts: \$235
Approx. Cost of Compliance: \$300
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$3,300**

OTHER FACTORS AS JUSTICE MAY REQUIRE **7.1%** *Adjustment* **\$235**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs of compliance associated with the violation.

Final Penalty Amount **\$3,535**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$3,535**

DEFERRAL **20.0%** Reduction *Adjustment* **-\$707**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,828**

Screening Date 13-Jan-2014

Docket No. 2014-0061-PST-E

PCW

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.

Policy Revision 2 (September 2002)

Case ID No. 48118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102590932

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Fennell

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>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |

Please Enter Yes or No

| | | | |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 13-Jan-2014

Docket No. 2014-0061-PST-E

PCW

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.

Policy Revision 2 (September 2002)

Case ID No. 48118

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102590932

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description Failed to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the prior UST delivery certificate expired on May 31, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%). Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 926

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

Violation Base Penalty \$3,000

Three annual events are recommended.

Good Faith Efforts to Comply

10.0% Reduction \$300

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

Notes: The Respondent came into compliance on December 12, 2013, after the December 10, 2013 Notice of Enforcement.

Violation Subtotal \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$235

Violation Final Penalty Total \$3,535

This violation Final Assessed Penalty (adjusted for limits) \$3,535

Economic Benefit Worksheet

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.

Case ID No. 48118

Reg. Ent. Reference No. RN102590932

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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 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 | 19-Nov-2013 | 12-Dec-2013 | 0.06 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to obtain a delivery certificate by submitting a properly completed UST registration and self certification form. The date required is the investigation date and the final date is the compliance date.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|-------|------------|-------------|------|------|-------|-------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$200 | 1-May-2011 | 19-Nov-2013 | 3.47 | \$35 | \$200 | \$235 |

Notes for AVOIDED costs

Estimated avoided cost (\$100 per full year) to accurately prepare and submit a UST registration and self certification form and obtain a valid, current TCEQ delivery certificate. The date required is the registration due date and the final date is the investigation date.

Approx. Cost of Compliance

\$300

TOTAL

\$235



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 6-Jan-2014 | Screening | 13-Jan-2014 | EPA Due | |
| | PCW | 13-Jan-2014 | | | | |

| | |
|--|------------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | BUDGET RENT-A-CAR OF EL PASO, INC. |
| Reg. Ent. Ref. No. | RN102590932 |
| Facility/Site Region | 6-El Paso |
| Major/Minor Source | Minor |

| | | | |
|--|------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 48118 | No. of Violations | 3 |
| Docket No. | 2014-0061-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | John Fennell |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,750**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **20.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,150**

Notes Enhancement for one order with denial of liability.

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

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$687**

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

Total EB Amounts **\$4**
 Approx. Cost of Compliance **\$532**

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,213**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$6,213**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,213**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,242**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$4,971**

Screening Date 13-Jan-2014

Docket No. 2014-0061-PST-E

PCW

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.

Policy Revision 3 (September 2011)

Case ID No. 48118

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102590932

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Fennell

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>) | 1 | 20% |
| | 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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 20%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 20%

Screening Date 13-Jan-2014

Docket No. 2014-0061-PST-E

PCW

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.

Policy Revision 3 (September 2011)

Case ID No. 48118

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102590932

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

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 UST. Specifically, fuel deliveries were accepted without a delivery certificate on February 13, 2013, March 22, 2013, May 1, 2013, August 8, 2013, and September 12, 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | x |

Percent 3.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0.0%

Matrix Notes

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 5

5 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

mark only one with an x

Violation Base Penalty \$3,750

Five single events are recommended for accepting five fuel deliveries.

Good Faith Efforts to Comply

10.0% Reduction

\$375

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

Notes The Respondent came into compliance on December 12, 2013, after the December 10, 2013 Notice of Enforcement.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,125

This violation Final Assessed Penalty (adjusted for limits) \$4,125

Economic Benefit Worksheet

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.
Case ID No. 48118
Reg. Ent. Reference No. RN102590932
Media Petroleum Storage Tank
Violation No. 1

| 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 | | | 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 included in violation no. 1 of the penalty policy revision 2 PCW.

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 13-Jan-2014

Docket No. 2014-0061-PST-E

PCW

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.

Policy Revision 3 (September 2011)

Case ID No. 48118

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102590932

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.48(a)

Violation Description Failed to operate and maintain the UST system in a manner that will prevent releases of regulated substances. Specifically, the UST tight-fill top-seal cap did not seal tightly.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (3.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 Number of violation days 17

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

Violation Base Penalty \$750

One single event is recommended based on documentation of the violation during the November 19, 2013 investigation.

Good Faith Efforts to Comply

25.0% Reduction \$187

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

Notes The Respondent came into compliance on December 6, 2013, before the December 10, 2013 Notice of Enforcement.

Violation Subtotal \$563

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$713

This violation Final Assessed Penalty (adjusted for limits) \$713

Economic Benefit Worksheet

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.
Case ID No. 48118
Req. Ent. Reference No. RN102590932
Media Petroleum Storage Tank
Violation No. 2

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

No commas or \$

Delayed Costs

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Equipment | \$32 | 19-Nov-2013 | 6-Dec-2013 | 0.05 | \$0 | \$0 | \$0 |
| Buildings | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Land | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | 0.00 | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | 0.00 | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to replace the UST tight-fill top-seal cap. The date required is the investigation date and the final date is the compliance date.

Avoided Costs

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | 0.00 | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$32

TOTAL

\$0

Screening Date 13-Jan-2014

Docket No. 2014-0061-PST-E

PCW

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.

Policy Revision 3 (September 2011)

Case ID No. 48118

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102590932

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)(2)(A)(ii) and (b)(2)(B)(vi)

Violation Description Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, financial assurance and Statistical Inventory Reconciliation records for June and October 2013 were not available.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 0.0% |
| | Potential | | | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Harm | | | Percent |
|---|---------------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | | X | | | 5.0% |
| 100% of the rule requirement was not met. | | | | | |

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 52 Number of violation days

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | |
| | Single event | X |

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$125

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

Notes The Respondent came into compliance on January 10, 2014 after the December 10, 2013 Notice of Enforcement.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,375

This violation Final Assessed Penalty (adjusted for limits) \$1,375

Economic Benefit Worksheet

Respondent BUDGET RENT-A-CAR OF EL PASO, INC.
Case ID No. 48118
Reg. Ent. Reference No. RN102590932
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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | \$500 | 19-Nov-2013 | 10-Jan-2014 | 0.14 | \$4 | n/a | \$4 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to maintain UST records. The date required is the investigation date and the final date is the compliance date.

Avoided Costs

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$4

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN601411440, RN102590932, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN601411440, BUDGET RENT-A-CAR OF EL PASO, INC. **Classification:** SATISFACTORY **Rating:** 5.06

Regulated Entity: RN102590932, Budget Rent-A-Car **Classification:** SATISFACTORY **Rating:** 6.75

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 6510 DE HAVILLAND DR EL PASO, TX 79925-1024, EL PASO COUNTY

TCEQ Region: REGION 06 - EL PASO

ID Number(s):

AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE0885P

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 22651

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: January 08, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 08, 2009 to January 08, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: John Fennell

Phone: (512) 239-2616

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 02/05/2011 ADMINORDER 2010-1223-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.252(2)

5C THSC Chapter 382 382.085(b)

Description: Failed to comply with the maximum RVP requirement of 7.0 psia during the control period of June 1 through September 16. Specifically, a regular unleaded gasoline sample taken from Pump No. 1 was found to have an RVP of 7.72 psia.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 September 16, 2009 (775401)

| | | |
|--------|-------------------|-----------|
| Item 2 | February 24, 2010 | (793325) |
| Item 3 | February 24, 2011 | (899958) |
| Item 4 | July 28, 2011 | (943206) |
| Item 5 | December 01, 2011 | (969500) |
| Item 6 | August 14, 2012 | (1021991) |
| Item 7 | April 08, 2013 | (1076817) |
| Item 8 | July 22, 2013 | (1103179) |

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BUDGET RENT-A-CAR OF EL
PASO, INC.
RN102590932**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§
§ **ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0061-PST-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BUDGET RENT-A-CAR OF EL PASO, INC. ("Respondent") under the authority of Tex. Water Code chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Stewart Alexander of the law firm of 8018 Broadway Ltd., together stipulate that:

1. The Respondent owns and operates a fleet refueling facility at 6510 De Havilland Drive in El Paso, El Paso County, Texas (the "Facility").
2. The Respondent's one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 15, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Seven Hundred Forty-Eight Dollars (\$9,748) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Two Hundred Thirty-Nine Dollars (\$239) of the administrative penalty and One Thousand Nine Hundred Forty-Nine Dollars (\$1,949) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Five Hundred Sixty Dollars (\$7,560) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Sixteen Dollars (\$216) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Obtained a valid, current delivery certificate by submitting a properly completed UST registration and self-certification form on December 12, 2013;
 - b. Replaced the tight-fill top-seal cap on December 6, 2013; and
 - c. Provided statistical inventory reconciliation ("SIR") records for June and October 2013 by January 10, 2014.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on November 19, 2013. Specifically, the prior UST delivery certificate expired on May 31, 2011.
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on November 19, 2013. Specifically, fuel deliveries were accepted without a delivery certificate on February 13, 2013, March 22, 2013, May 1, 2013, August 8, 2013, and September 12, 2013.
3. Failed to to operate and maintain the UST system in a manner that will prevent releases of regulated substances, in violation of 30 TEX. ADMIN. CODE § 334.48(a), as documented during an investigation conducted on November 19, 2013. Specifically, the UST tight-fill top-seal cap did not seal tightly.
4. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(2)(A)(ii) and (b)(2)(B)(vi), as documented during an investigation conducted on November 19, 2013. Specifically, financial assurance and SIR records for June and October 2013 were not available.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the 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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: BUDGET RENT-A-CAR OF EL PASO, INC., Docket No. 2014-0061-PST-E" to:

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Navin
For the Executive Director

6/20/14
Date

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

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

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

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

[Signature]
Signature

3-17-14
Date

MICHAEL MALONEY
Name (Printed or typed)
Authorized Representative of
BUDGET RENT-A-CAR OF EL PASO, INC.

PRESIDENT
Title

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