

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 49263
Transam Petroleum, Inc. dba Tetco 665
RN102325834
Docket No. 2014-1285-PST-E

Order Type:

Agreed Order

Media:

Petroleum Storage Tanks (PST)

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1712 West Scyene Road, Mesquite, Dallas 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: July 3, 2015

Comments Received: None

Penalty Information

Total Penalty Assessed: \$19,473

Total Paid to General Revenue: \$573

Total Due to General Revenue: \$18,900

Payment Plan: 35 payments of \$540 each

Compliance History Classifications:

Person/CN – High
Site/RN – High

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: July 18, 2014

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

Date(s) of NOE(s): August 29, 2014

Violation Information

1. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency representatives [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(a)(1), (3), (4), (5), and (6) and (b)(2)].
2. Failed to ensure that another employee successfully completes the Stage II facility representative training within three months of the departure of the previously trained employee [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(2)].
3. Failed to verify proper operation of the Stage II equipment at least once every 12 months [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2)].
4. Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release as small as the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii)].
5. Failed to identify and designate at least one named individual for each class of operator – Class A, Class B, and Class C [30 TEX. ADMIN. CODE § 334.602(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Ensured that an employee completed the Stage II Station Representative training on September 10, 2014; and
2. Conducted the annual Stage II equipment test on August 15, 2014.

Technical Requirements:

1. Immediately, begin maintaining all Stage II records at the Station and ensure that they are made immediately available for inspection upon request by agency personnel.
2. Within 30 days:
 - a. Begin conducting reconciliation of inventory control records; and
 - b. Designate, train, and certify at least one named individual for each class of operator - Class A, Class B, and Class C.
3. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: February 03, 2015; March 12, 2015
Date Answer Filed: N/A
Settlement Date: May 13, 2015

Contact Information

TCEQ Attorneys: Ryan Rutledge, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Rudy Calderon, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Mike Pace, Enforcement Division, (817) 588-5933

TCEQ Regional Contact: Sam Barrett, Dallas/Ft. Worth Regional Office, (512) 239-3308

Respondent Contact: Franklin Tran, President, Transam Petroleum, Inc., 409 West Myrtle Street, Winnsboro, Texas 75494

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	2-Sep-2014	Screening	3-Sep-2014	EPA Due	
	PCW	2-Apr-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Transam Petroleum, Inc. dba Tetco 665				
Reg. Ent. Ref. No.	RN102325834				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	49263	No. of Violations	5
Docket No.	2014-1285-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mike Pace
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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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	-10.0%	Reduction	Subtotals 2, 3, & 7	-\$2,250
Notes	Reduction for high performer classification.			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	-\$1,312
Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$590	*Capped at the Total EB \$ Amount		
Estimated Cost of Compliance	\$2,500			

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,938
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OTHER FACTORS AS JUSTICE MAY REQUIRE	2.8%	Adjustment	\$535
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided costs associated with violation no. 3.		
	Final Penalty Amount	\$19,473	

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,473
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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	\$19,473
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Screening Date 3-Sep-2014

Docket No. 2014-1285-PST-E

PCW

Respondent Transam Petroleum, Inc. dba Tetco 665

Policy Revision 4 (April 2014)

Case ID No. 49263

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325834

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

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 judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date	3-Sep-2014	Docket No.	2014-1285-PST-E	PCW
Respondent	Transam Petroleum, Inc. dba Tetco 665			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	49263			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN102325834			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Mike Pace			

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 115.246(a)(1), (3), (4), (5), (6), and (b)(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency representatives. Specifically, a copy of the California Air Resources Board Executive Order, Stage II maintenance records, documentation of employee training, test results, and daily and monthly inspection logs were not available.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR	Harm			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0.0%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Transam Petroleum, Inc. dba Tetco 665
Case ID No. 49263
Reg. Ent. Reference No. RN102325834
Media 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	\$500	18-Jul-2014	3-Mar-2015	0.62	\$16	n/a	\$16
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 of maintaining Stage II records at the Station and ensuring that they are made immediately available for inspection upon request by agency personnel. The date required is the investigation date, and the final date is the estimated date of compliance.

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$16

Screening Date 3-Sep-2014

Docket No. 2014-1285-PST-E

PCW

Respondent Transam Petroleum, Inc. dba Tetco 665

Policy Revision 4 (April 2014)

Case ID No. 49263

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325834

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.248(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that another employee successfully completes the Stage II facility representative training within three months of the departure of the previously trained employee.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%).

>> Programmatic Matrix

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

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 47

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

Violation Base Penalty \$3,750

One quarterly event is recommended from the July 18, 2014 investigation to the September 3, 2014 screening date.

Good Faith Efforts to Comply

10.0%

Reduction \$375

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

Notes The Respondent came into compliance on September 10, 2014, after the Notice of Enforcement ("NOE") dated August 29, 2014.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$3,085

This violation Final Assessed Penalty (adjusted for limits) \$3,085

Economic Benefit Worksheet

Respondent Transam Petroleum, Inc. dba Tetco 665
Case ID No. 49263
Reg. Ent. Reference No. RN102325834
Media Violation No. Petroleum Storage Tank
 2

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	\$500	18-Jul-2014	10-Sep-2014	0.15	\$4	n/a	\$4
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 complete the Stage II Station representative training. The date required is the investigation date, and the final date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$4

Screening Date 3-Sep-2014

Docket No. 2014-1285-PST-E

PCW

Respondent Transam Petroleum, Inc. dba Tetco 665

Policy Revision 4 (April 2014)

Case ID No. 49263

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325834

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Violation Number 3

Rule Cite(s)

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

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Respondent did not conduct the annual testing of the Stage II equipment by the February 21, 2014 due date.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

147 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$3,750

One annual event is recommended for the period preceding the July 18, 2014 investigation.

Good Faith Efforts to Comply

25.0%

Reduction \$937

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on August 15, 2014, prior to the NOE dated August 29, 2014.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$535

Violation Final Penalty Total \$2,507

This violation Final Assessed Penalty (adjusted for limits) \$2,507

Economic Benefit Worksheet

Respondent Transam Petroleum, Inc. dba Tetco 665
Case ID No. 49263
Reg. Ent. Reference No. RN102325834
Media Violation No. Petroleum Storage Tank
 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	21-Feb-2014	15-Aug-2014	1.40	\$35	\$500	\$535
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for conducting annual testing of the Stage II equipment. The date required is the test due date, and the final date is the compliance date.

Approx. Cost of Compliance \$500

TOTAL \$535

Screening Date 3-Sep-2014

Docket No. 2014-1285-PST-E

PCW

Respondent Transam Petroleum, Inc. dba Tetco 665

Policy Revision 4 (April 2014)

Case ID No. 49263

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325834

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.50(d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release as small as the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

		Harm		
		Major	Moderate	Minor
Release	Actual			
	Potential	x		

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 \$17,500

\$7,500

Violation Events

Number of Violation Events 1

47 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

One quarterly event is recommended from the July 18, 2014 investigation to the September 3, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$6,941

This violation Final Assessed Penalty (adjusted for limits) \$6,941

Economic Benefit Worksheet

Respondent Transam Petroleum, Inc. dba Tetco 665
Case ID No. 49263
Reg. Ent. Reference No. RN102325834
Media Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	18-Jul-2014	3-Apr-2015	0.71	\$18	n/a	\$18

Notes for DELAYED costs
 Estimated cost to conduct reconciliation of inventory control records. The date required is the investigation date, and the final date is the estimated date of compliance.

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

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

Notes for AVOIDED costs
 (Empty box for notes)

Approx. Cost of Compliance	\$500	TOTAL	\$18
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Screening Date 3-Sep-2014

Docket No. 2014-1285-PST-E

PCW

Respondent Transam Petroleum, Inc. dba Tetco 665

Policy Revision 4 (April 2014)

Case ID No. 49263

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102325834

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 334.602(a)

Violation Description

Failed to identify and designate at least one named individual for each class of operator- Class A, Class B, and Class C.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

47 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One quarterly event is recommended from the July 18, 2014 investigation to the September 3, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$3,470

This violation Final Assessed Penalty (adjusted for limits) \$3,470

Economic Benefit Worksheet

Respondent Transam Petroleum, Inc. dba Tetco 665
Case ID No. 49263
Reg. Ent. Reference No. RN102325834
Media Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$500	18-Jul-2014	3-Apr-2015	0.71	\$18	n/a	\$18
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 designate, train, and certify at least one named individual for each class of operator-Class A, Class B, and Class C. The date required is the investigation date, and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$18

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.



Compliance History Report

PENDING Compliance History Report for CN604534461, RN102325834, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN604534461, Transam Petroleum, Inc. **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102325834, Tetco 665 **Classification:** HIGH **Rating:** 0.00

Complexity Points: 4 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 1712 W SCYENE RD MESQUITE, TX 75149-3638, DALLAS COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s): **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 5714

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: September 12, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 12, 2009 to September 12, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Mike Pace **Phone:** (817) 588-5933

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? YES
- 3) If **YES** for #2, who is the current owner/operator? TRANSAM PETROLEUM, INC. OWNER OPERATOR since 12/23/2013
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? 7-Eleven, Inc., OWNER OPERATOR, 11/1/2012 to 12/22/2013
DFW Convenience Stores, L.P., OWNER OPERATOR, 7/7/2004 to 10/31/2012
- 5) If **YES**, when did the change(s) in owner or operator occur? 12/23/2013

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 May 10, 2011 (892587)

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TRANSAM PETROLEUM, INC.
DBA TETCO 665;
RN102325834**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2014-1285-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Transam Petroleum, Inc. dba Tetco 665 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. 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 1712 West Scyene Road in Mesquite, Dallas County, Texas (Facility ID No. 5714) (the "Station"). The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051 and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of nineteen thousand four hundred seventy-three dollars (\$19,473.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid five hundred seventy-three dollars (\$573.00) of the penalty. The remaining amount of eighteen thousand nine hundred dollars (\$18,900.00) shall be paid in thirty-five (35) monthly payments of five hundred forty dollars (\$540.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. Respondent's failure to meet the payment schedule of this Order

- and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. 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.
 6. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 7. 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 Order.
 8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
 9. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
 10. The Executive Director recognizes that Respondent implemented the following corrective measures at the Station:
 - a. Ensured that an employee completed the Stage II Station representative training September 10, 2014; and
 - b. Conducted the annual Stage II equipment test on August 15, 2014.

II. ALLEGATIONS

1. During an investigation conducted on July 18, 2014, an investigator documented that Respondent:
 - a. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency representatives, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(a)(1), (3), (4), (5), and (6) and (b)(2). Specifically, a copy of the California Air Resources Board Executive Order, Stage II maintenance records, documentation of employee training, test results, and daily and monthly inspection logs were not available;
 - b. Failed to ensure that another employee successfully completes the Stage II facility representative training within three months of the departure of the previously trained employee, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(2);
 - c. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2). Specifically, Respondent did not conduct the annual testing of the Stage II equipment by the February 21, 2014 due date;
 - d. Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release as small as the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii); and

- e. Failed to identify and designate at least one named individual for each class of operator- Class A, Class B, and Class C, in violation of 30 TEX. ADMIN. CODE § 334.602(a).

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: Transam Petroleum, Inc. dba Tetco 665, Docket No. 2014-1285-PST-E" to:

Financial Administration Division, Revenue Operations 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 Order, begin maintaining all Stage II records at the Station and ensure that they are made immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 115.246.
 - b. Within 30 days after the effective date of this Order:
 - i. Begin conducting reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - ii. Designate, train, and certify at least one named individual for each class of operator- Class A, Class B, and Class C, in accordance with 30 TEX. ADMIN. CODE § 334.602.
 - c. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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 certification 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:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. This 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 Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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,

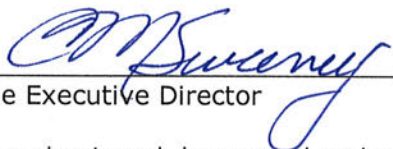
person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date of hand delivery of the fully executed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of the fully executed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director



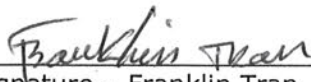
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

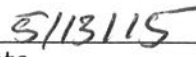
I also understand that failure to comply with the Ordering Provisions in this Order and/or failure to timely pay the penalty amount may result in:

- 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.



Signature - Franklin Tran, President
Transam Petroleum, Inc.
P.O. Box 183
Winnsboro, Texas 75494



Date

If mailing address has changed, please check this box and provide the new address below:
