

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-1357-PST-E **TCEQ ID:** RN100646678 **CASE NO.:** 38267

**RESPONDENT NAME:** ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input checked="" type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Ancira Winton Chevrolet, 6111 Bandera Road, San Antonio, Bexar County</p> <p><b>TYPE OF OPERATION:</b> Vehicle maintenance and repair service center</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the BD and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 14, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Ernesto Ancira, President, ANCIRA ENTERPRISES INCORPORATED, 6111 Bandera Road, San Antonio, Texas 78238                      Mr. Herman Murray, Vice President-General Manager, ANCIRA ENTERPRISES INCORPORATED, 6111 Bandera Road, San Antonio, Texas 78238  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 17, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 14, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to provide an amended underground storage tank ("UST") registration to the agency for any change or additional information regarding the UST within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate the Respondent's correct contact information [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>2) Failure to ensure that the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge ("ATG") was not being put into test mode monthly [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form. Specifically, the fill port was not labeled [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>4) Failure to maintain records relating to the operation and maintenance of the UST</p>	<p><b>Total Assessed:</b> \$4,950</p> <p><b>Total Deferred:</b> \$990  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,960</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted an amended UST registration to the TCEQ indicating the correct contact information on September 1, 2009;</p> <p>b. Submitted documentation verifying that as of August 17, 2009, the ATG was performing the required monthly testing;</p> <p>c. Properly marked the UST with identification number matching the number listed on the UST registration and self-certification form on August 28, 2009; and</p> <p>d. Began maintaining all inspection records for spill containment devices on September 1, 2009.</p>

system. Specifically, a record of the 60 day inspections of the spill containment devices was not being maintained [30 TEX. ADMIN. CODE § 334.48(g)].		
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Additional ID No(s): PST No. 29774





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>Assigned</b>	24-Aug-2009		
<b>PCW</b>	31-Aug-2009	<b>Screening</b>	24-Aug-2009
		<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet
<b>Reg. Ent. Ref. No.</b>	RN100846678
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38267	<b>No. of Violations</b>	4
<b>Docket No.</b>	2009-1357-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Judy Kluge
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.		
<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$0
<b>Notes</b>	No adjustment due to compliance history.	
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.	
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$550
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b> \$0
Total EB Amounts	\$3	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$550	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,950
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b> \$0
Reduces or enhances the Final Subtotal by the Indicated percentage.		
<b>Notes</b>		
	<b>Final Penalty Amount</b>	\$4,950
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,950
<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b> -\$990
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)		
<b>Notes</b>	Deferral offered for expedited settlement.	
<b>PAYABLE PENALTY</b>		\$3,960

**Screening Date:** 24-Aug-2009

**Docket No.:** 2009-1357-PST-E

**PCW**

**Respondent:** ANCIRA ENTERPRISES INCORPORATED dba Ancira \

Policy Revision 2 (September 2002)

**Case ID No.:** 38267

PCW Revision October 30, 2008

**Reg. Ent. Reference No.:** RN100646678

**Media [Statute]:** Petroleum Storage Tank

**Enf. Coordinator:** Judy Kluge

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written 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%

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)** 0%

>> **Repeat Violator (Subtotal 3)**

No

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

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

Average Performer

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

>> **Compliance History Summary**

Compliance History Notes

No adjustment due to compliance history.

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

<b>Screening Date:</b> 24-Aug-2009		<b>Docket No.:</b> 2009-1357-PST-E		<b>PCW</b>
<b>Respondent:</b> ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Ch			<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.:</b> 38267			<i>PCW Revision October 30, 2008</i>	
<b>Reg. Ent. Reference No.:</b> RN100646678				
<b>Media [Statute]:</b> Petroleum Storage Tank				
<b>Enf. Coordinator:</b> Judy Kluge				
<b>Violation Number</b>	<input type="text" value="1"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.7(d)(3)			
<b>Violation Description</b>	Failed to provide an amended UST registration to the agency for any change or additional information regarding the UST within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate the Respondent's correct contact information.			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
<b>Adjustment</b>				<input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="38"/> <b>Number of violation days</b>	
<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 checked="" type="checkbox"/>		
				<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
One single event is recommended based on documentation of the violation during the July 17, 2009 investigation.				
<b>Good Faith Efforts to Comply</b>		<b>10.0% Reduction</b>		<input type="text" value="\$100"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	x	
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	The Respondent came into compliance on September 1, 2009, after the NOE dated August 14, 2009.			
<b>Violation Subtotal</b>				<input type="text" value="\$900"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$900"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$900"/>

### Economic Benefit Worksheet

**Respondent:** ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet  
**Case ID No.:** 38267  
**Reg. Ent. Reference No.:** RN100646678  
**Media:** Petroleum Storage Tank  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	17-Jul-2009	1-Sep-2009	0.13	\$1	n/a	\$1

Notes for DELAYED costs: Estimated cost to amend the UST registration to include the correct owner information. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$100	<b>TOTAL</b>	\$1
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<b>Screening Date:</b> 24-Aug-2009		<b>Docket No.:</b> 2009-1357-PST-E		<b>PCW</b>
<b>Respondent:</b> ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Che				<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.:</b> 38267				<small>PCW Revision October 30, 2008</small>
<b>Reg. Ent. Reference No.:</b> RN100646678				
<b>Media [Statute]:</b> Petroleum Storage Tank				
<b>Enf. Coordinator:</b> Judy Kluge				
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)			
<b>Violation Description</b>	Failed to ensure that the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the ATG was not being put into test mode monthly.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>				\$7,500
				<b>\$2,500</b>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="31"/>		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
				<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
One quarterly event is recommended based on documentation of the violation during the July 17, 2009 investigation to the August 17, 2009 compliance date.				
<b>Good Faith Efforts to Comply</b>				
		<b>10.0%</b>	<b>Reduction</b>	<b>\$250</b>
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
N/A	<input type="checkbox"/>	<small>(mark with x)</small>		
<b>Notes</b>	The Respondent came into compliance on August 17, 2009, after the NOE dated August 14, 2009.			
<b>Violation Subtotal</b>				\$2,250
<b>Economic Benefit (EB) for this violation</b>				
		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,250"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$2,250

## Economic Benefit Worksheet

**Respondent** ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet  
**Case ID No.** 38267  
**Reg. Ent. Reference No.** RN100646678  
**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				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)	\$250	17-Jul-2009	17-Aug-2009	0.08	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to provide a method of release detection for the UST. The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

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

\$250

TOTAL

\$1

<b>Screening Date</b>	24-Aug-2009	<b>Docket No.</b>	2009-1357-PST-E	<b>PCW</b>
<b>Respondent</b>	ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Che		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	38267	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN100646678			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Judy Kluge			
<b>Violation Number</b>	3			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(C)			
<b>Violation Description</b>	Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form. Specifically, the fill port was not labeled.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
<b>Adjustment</b>				\$9,000
				<b>\$1,000</b>
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="38"/>	<b>Number of violation days</b>
<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 checked="" type="text" value="x"/>		
				<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
One single event is recommended based on documentation of the violation during the July 17, 2009 investigation.				
<b>Good Faith Efforts to Comply</b>				
		<b>10.0% Reduction</b>	<input type="text" value="\$100"/>	
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>		
N/A	(mark with x)			
<b>Notes</b>	The Respondent came into compliance on August 28, 2009, after the NOE dated August 14, 2009.			
<b>Violation Subtotal</b>				\$900
<b>Economic Benefit (EB) for this violation</b>				
		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$900"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$900

## Economic Benefit Worksheet

**Respondent:** ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet  
**Case ID No.:** 38267  
**Reg. Ent. Reference No.:** RN100646678  
**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				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	17-Jul-2009	28-Aug-2009	0.12	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost includes the amount required to permanently affix a metal label to the UST fill port. The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

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

\$100

**TOTAL**

\$1

<b>Screening Date</b> 24-Aug-2009	<b>Docket No.</b> 2009-1357-PST-E	<b>PCW</b>	
<b>Respondent</b> ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Che	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b> 38267	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b> RN100648678			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b> 4			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.48(g)		
<b>Violation Description</b>	Failed to maintain records relating to the operation and maintenance of the UST system. Specifically, a record of the 80 day inspections of the spill containment devices was not being maintained.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	Harm		
	Major	Moderate	Minor
Release	Actual	Potential	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 0%
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
Falsification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Percent <input type="checkbox"/> 10%
<b>Matrix Notes</b>	100% of the rule requirement was not being met.		
<b>Adjustment</b>		\$9,000	
		\$1,000	
<b>Violation Events</b>			
Number of Violation Events <input type="checkbox"/> 1		Number of violation days <input type="checkbox"/> 38	
mark only one with an x	daily	<input type="checkbox"/>	Violation Base Penalty <input type="checkbox"/> \$1,000
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input checked="" type="checkbox"/>	
One single event is recommended based on documentation of the violation during the July 17, 2009 investigation.			
<b>Good Faith Efforts to Comply</b>		<b>10.0% Reduction</b>	\$100
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
N/A	(mark with x)		
<b>Notes</b>	The Respondent came into compliance on September 1, 2009, after the NOE dated August 14, 2009.		
<b>Violation Subtotal</b>		\$900	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount <input type="checkbox"/> \$1		Violation Final Penalty Total <input type="checkbox"/> \$900	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="checkbox"/> \$900	

## Economic Benefit Worksheet

**Respondent:** ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet  
**Case ID No.:** 38267  
**Reg. Ent. Reference No.:** RN100646678  
**Media:** Petroleum Storage Tank  
**Violation No.:** 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$100	17-Jul-2009	1-Sep-2009	0.13	\$1	n/a	\$1
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 records of inspections for spill containment devices for the UST system. The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601380991 ANCIRA ENTERPRISES INCORPORATED Classification: AVERAGE Rating: 2.00  
Regulated Entity: RN100646678 ANCIRA WINTON CHEVROLET Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT

ID Number(s): AIR NEW SOURCE PERMITS PERMIT 27223  
AIR NEW SOURCE PERMITS PERMIT 39425  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER BG0782J  
PETROLEUM STORAGE TANK REGISTRATION 29774  
REGISTRATION  
PETROLEUM STORAGE TANK REGISTRATION 75920  
REGISTRATION

Location: 6111 BANDERA RD, SAN ANTONIO, TX, 78238

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: August 24, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 24, 2004 to August 24, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Judy Kluge Phone: 817-588-5825

## 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? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 08/19/2009 (762847)
- 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



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ANCIRA ENTERPRISES  
INCORPORATED DBA ANCIRA  
WINTON CHEVROLET  
RN100646678

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-1357-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet ("the 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 appear before the Commission and together stipulate that:

1. The Respondent owns and operates a vehicle maintenance and repair service center at 6111 Bandera Road in San Antonio, Bexar County, Texas (the "Facility").
2. The Respondent's one underground storage tank system ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission 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 August 19, 2009.
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 Four Thousand Nine Hundred Fifty Dollars (\$4,950) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Nine Hundred Sixty Dollars (\$3,960) of the administrative penalty and Nine Hundred Ninety Dollars (\$990) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Submitted an amended UST registration to the TCEQ indicating the correct contact information on September 1, 2009;
  - b. Submitted documentation verifying that as of August 17, 2009, the automatic tank gauge ("ATG") was performing the required monthly testing;
  - c. Properly marked the UST with identification number matching the number listed on the UST registration and self-certification form on August 28, 2009; and
  - d. Began maintaining all inspection records for spill containment devices on September 1, 2009.
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 provide an amended UST registration to the agency for any change or additional information regarding the UST within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on July 17, 2009. Specifically, the registration was not amended to indicate the Respondent's correct contact information.
2. Failed to ensure that the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on July 17, 2009. Specifically, the ATG was not being put into test mode monthly.
3. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on July 17, 2009. Specifically, the fill port was not labeled.
4. Failed to maintain records relating to the operation and maintenance of the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(g), as documented during an investigation conducted on July 17, 2009. Specifically, a record of the 60 day inspections of the spill containment devices was not being maintained.

### 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: ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet, Docket No. 2009-1357-PST-E" to:

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

2. The 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. 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.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. 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. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John Szolien*  
For the Executive Director

12/8/2009  
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

10-14-2009  
Date

*Herman Murray*  
Name (Printed or typed)  
Authorized Representative of  
ANCIRA ENTERPRISES INCORPORATED dba Ancira Winton Chevrolet

*VP-General Manager*  
Title

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

