

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2005-1295-PST-E TCEQ ID NO.: RN101867547 CASE NO.: 26233**  
**RESPONDENT NAME: PINGLIA AND ASSOCIATES INVESTMENT, L.L.C. DBA**  
**HAPPY FOOD MART**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 3602 South Shaver Street, Houston, Harris County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on July 15, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Robert R. Mosley, Litigation Division, MC 175, (512) 239-0627;  
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

**TCEQ Enforcement Coordinator:** Ms. Trina Grieco, Enforcement Division, Section III, MC R-13, (210) 403-4006

**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

**Respondent:** Mr. Sumer S. Pinglia, Registered Agent, Pinglia and Associates Investment, L.L.C. dba Happy Food Mart, 11919 Palmetto Shores Drive, Houston, Texas 77065

**Respondent's Attorney:** Not represented by counsel.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Dates of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigations Relating to this Case:</b> June 10, 2005</p> <p><b>Dates of NOV/NOEs Relating to this Case:</b> February 23, 2004 (NOV) and July 1, 2005 (NOE)</p> <p><b>Background Facts:</b></p> <p>An EDPRP was filed on February 2, 2006. The EDPRP was received by the Respondent on February 6, 2006, as indicated by the return receipt green card. An EDFARP was filed on March 29, 2007. The EDFARP was received by the Respondent on March 31, 2007, as indicated by the return receipt green card. The Respondent has not filed an answer, requested a hearing or scheduled a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST:</b></p> <p>Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily harm and property damage caused by accidental releases arising from the operation of USTs for the period December 3, 2002 to December 3, 2003 [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p><b>Total Assessed:</b> \$2,100</p> <p><b>Total Deferred:</b> \$0</p> <p style="padding-left: 40px;"><input type="checkbox"/> Expedited Settlement</p> <p style="padding-left: 40px;"><input type="checkbox"/> Financial Inability to Pay</p> <p><b>Total Due to General Revenue:</b> \$2,100</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <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>Ordering Provisions</b></p> <p>There are no technical requirements required because the Respondent no longer owns or operates the Facility.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	06-Jul-2005	Screening	18-Jul-2005	EPA Due	
	PCW	26-Mar-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Pinglia and Associates Investment, LLC dba Happy Food Mart
Reg. Ent. Ref. No.	RN101867547
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	26233	No. of Violations	1
Docket No.	2005-1295-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Trina Grieco
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

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 5% Enhancement Subtotals 2, 3, & 7

Notes

**Culpability** No  Subtotal 4

Notes

**Good Faith Effort to Comply** 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)

Notes

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

Total EB Amounts	\$4,095	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,300	

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

**Screening Date** 18-Jul-2005      **Docket No.** 2005-1295-PST-E      **PCW**  
**Respondent** Pinglia and Associates Investment, LLC dba Happy Food Mart      *Policy Revision 2 (September 2002)*  
**Case ID No.** 26233      *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN101867547  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Trina Grieco

**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> )	1	5%
	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</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)** 5%

>> 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

The respondent has one prior notice of violation (NOV) with same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 5%

**Screening Date** 18-Jul-2005 **Docket No.** 2005-1295-PST-E **PCW**  
**Respondent** Pinglia and Associates Investment, LLC dba Happy Food Mart *Policy Revision 2 (September 2002)*  
**Case ID No.** 26233 *PCW-Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN101867547  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Trina Grieco  
**Violation Number**   
**Primary Rule Cite(s)**   
**Secondary Rule Cite(s)**   
**Violation Description**

**Base Penalty**

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

**Violation Base Penalty**

**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 Pinglia and Associates Investment, LLC dba Happy Food Mart  
 Case ID No. 26233  
 Reg. Ent. Reference No. RN101867547  
 Media [Statute] 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
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,300	03-Dec-2002	22-Mar-2005	3.0	\$195	\$3,900	\$4,095
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs  
 The avoided costs include the estimated cost to provide financial assurance for two USTs. Date required (12/03/2002) is one year prior to the initial request to submit proof of financial assurance on 12/03/2003.

Approx. Cost of Compliance

TOTAL

# Compliance History

Customer/Respondent/Owner-Operator: CN601017551 Pinglia and Associates Investment, LLC Classification: AVERAGE Site Rating: 1.00

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Regulated Entity: RN101867547 HAPPY FOOD MART Classification: AVERAGE Site Rating: 1.00

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ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 70332  
REGISTRATION

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Location: 3602 SOUTH SHAVER STREET, HOUSTON, TX 77587

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TCEQ Region: REGION 12 - HOUSTON

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Date Compliance History Prepared: JULY 27, 2005

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Agency Decision Requiring Compliance History: Enforcement

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Compliance Period: July 27, 2000 to July 27, 2005

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TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Jaime Garza Phone: (956) 430-6030

## 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 of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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	07/01/2005	(395761)
2	02/23/2004	(349984)

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

Date: 02/23/2004 (349984)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]  
30 TAC Chapter 37, SubChapter I 37.815(b)[G]  
Description: Failure to provide acceptable financial assurance.

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

done

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PINGLIA AND ASSOCIATES  
INVESTMENT, L.L.C. DBA HAPPY  
FOOD MART;  
RN101867547

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

DEFAULT ORDER  
DOCKET NO. 2005-1295-PST-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty against the respondent. The respondent made the subject of this Order is Pinglia and Associates Investment, L.L.C. dba Happy Food Mart (“Pinglia”).

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

FINDINGS OF FACT

1. Pinglia owned and operated a convenience store with retail sales of gasoline located at 3602 South Shaver Street, Houston, Harris County, Texas (the “Facility”).
2. Pinglia’s underground storage tanks (“USTs”) are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Pinglia’s USTs contain a regulated substance as defined in the rules of the Commission.
3. During an records review conducted on June 10, 2005, a TCEQ Central Office investigator documented that Pinglia failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily harm and property damage caused by accidental releases arising from the operation of USTs for the period December 3, 2002 to December 3, 2003.
4. Pinglia received notice of the violation on or about July 6, 2005.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Pinglia and Associates Investment, L.L.C. dba Happy Food Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on February 2, 2006.
6. By letter dated February 2, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Pinglia with notice of the EDPRP. According to the return receipt "green card," Pinglia received notice of the EDPRP on February 6, 2006, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Pinglia received notice of the EDPRP, provided by the Executive Director. Pinglia failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Pinglia and Associates Investment, L.L.C. dba Happy Food Mart" (the "EDFARP") in the TCEQ Chief Clerk's office on March 29, 2007.
9. By letter dated March 29, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Pinglia with notice of the EDFARP. According to the return receipt "green card," Pinglia received notice of the EDFARP on March 31, 2007, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Pinglia received notice of the EDFARP, provided by the Executive Director. Pinglia failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

### **CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact Nos. 1 and 2, Pinglia is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Pinglia failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily harm and property damage caused by accidental releases arising from the operation of USTs for the period December 3, 2002 to December 3, 2003, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).

3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Pinglia with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director has timely served Pinglia with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact Nos. 7 and 10, Pinglia has failed to file a timely answer to either the EDPRP or the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Pinglia and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Pinglia for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two thousand one hundred dollars (\$2,100.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

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

1. Pinglia is assessed an administrative penalty in the amount of two thousand one hundred dollars (\$2,100.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Pinglia's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re:

Pinglia and Associates Investment L.L.C. dba Happy Food Mart; Docket No. 2005-1295-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Pinglia.
4. If Pinglia 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, Pinglia's failure to comply is not a violation of this Order. Pinglia shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Pinglia shall notify the Executive Director within seven days after Pinglia becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Pinglia shall be made in writing to the Executive Director. Extensions are not effective until Pinglia receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Pinglia if the Executive Director determines that Pinglia has not complied with one or more of the terms or conditions in this Order.
7. 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.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF ROBERT R. MOSLEY**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Robert R. Mosley. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Pinglia and Associates Investment, L.L.C. dba Happy Food Mart” (the “EDPRP”) with the Office of the Chief Clerk on February 2, 2006.

I sent the EDPRP to Pinglia at its last known address on February 2, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Pinglia received notice of the EDPRP on February 6, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Pinglia and Associates Investment, L.L.C. dba Happy Food Mart” (the “EDFARP”) with the Office of the Chief Clerk on March 29, 2007.

I sent the EDFARP to Pinglia at its last known address on March 29, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Pinglia received notice of the EDFARP on March 31, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since Pinglia received notice of the EDPRP and EDFARP. Pinglia failed to file an answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.”



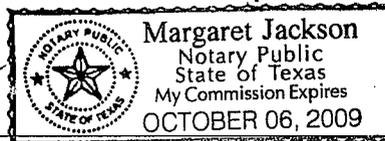
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Robert R. Mosley  
Attorney  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 25 day of April, A.D., 2007.

*Margaret Jackson*



Notary Stamp