EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1628-PST-E **TCEQ ID:** RN102441094 **CASE NO.:** 31187

RESPONDENT NAME: Kempwood Enterprises, LLC dba Chevron Mini Mart 3

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	X PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Chevron Mini Mart 3, 2750 Gessner Drive, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: __X__ Yes ____ No

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

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 February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-0577; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Local Program Investigator: Ms. Lajuan Julun, University of Texas at Arlington, Division of Continuing Education, UTHSCH Operations Center Boulevard, 1851 Crosspoint, Suite 1270, Houston, Texas 77057-3709

Respondent: Mr. Firoj Kurjee, Registered Agent, Kempwood Enterprises, LLC, dba Chevron Mini Mart 3, 2750 Gessener Drive, Houston, Texas 77080

Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up _X_ Records Review **Date of Complaint Relating to this Case:** None **Dates of Investigations Relating to this Case:** August 23 and September 11, 2006 **Date of NOE Relating to this Case:** August 31, 2006 (NOE) **Background Facts:** These were routine investigations. Five violations were documented. **WASTE** 1) Failed to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)]. 2) Failed to conduct proper release detection for the piping associated with the UST system. Specifically, Kempwood Enterprises did not conduct monthly monitoring or annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)]. 3) Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)]. 4) Failed to maintain the Stage II vapor recovery system in proper operating condition, including the absence or disconnection of any component that is a part of the approved system. Specifically, dispenser no. 4 had a nozzle that is not approved for use [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 5) Failed to pay outstanding UST fees for TCEQ Financial Assurance Account No. 0064327U for fiscal year 2006 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].	**Total Assessed:** $3,150 **Total Deferred:** $630 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $2,520 **Site Compliance History Classification:** _X_ High ___Avg. __Poor **Person Compliance History Classification:** _X_ High __Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order: i. Install and implement a release detection method for the USTs and the piping associated with the USTs and conduct testing of the line leak detectors for performance and operational reliability; ii. Begin maintaining Stage II vapor recovery system in proper operating condition including but not limited to replacing the nozzle of dispenser no. 4, in accordance with 30 TEX. ADMIN. CODE § 115.242; and iii. Submit payment of all outstanding fees, including any associated penalties and interest with the notation, "Kempwood Enterprises, LLC dba Chevron Mini Mart 3, TCEQ Financial Account No.0064327U", to the address in Paragraph 1 of this Section. b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provisions a.i through a.iii.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	05-Sep-2006				
PCW	26-Sep-2006	Screening	12-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Kempwood Enterprises, LLC dba Chevron Mini Mart 3		
Reg. Ent. Ref. No.	RN102441094		
Facility/Site Region	12-Houston	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31187	No. of Violations	3
Docket No.	2006-1628-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $3,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -10% Enhancement *Subtotals 2, 3, & 7* -$350

Notes: Reduction for High Performer Classification.

Culpability No — 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

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

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

Notes: The respondent does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$74
Approx. Cost of Compliance	$1,850

SUM OF SUBTOTALS 1-7 Final Subtotal $3,150

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $3,150

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $3,150

DEFERRAL 20% Reduction Adjustment -$630

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $2,520

Screening Date 12-Sep-2006 **Docket No.** 2006-1628-PST-E **PCW**
Respondent Kempwood Enterprises, LLC dba Chevron Mini Mart 3 *Policy Revision 2 (September 2002)*
Case ID No. 31187 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102441094
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

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 *(number of NOVs meeting criteria)*	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	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 *(number of judgements or consent decrees meeting criteria)*	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 *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	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)

High Performer ***Adjustment Percentage (Subtotal 7)*** **-10%**

>> Compliance History Summary

Compliance History Notes Reduction for High Performer Classification.

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

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date 12-Sep-2006 **Docket No.** 2006-1628-PST-E

Respondent Kempwood Enterprises, LLC dba Chevron Mini Mart 3

Case ID No. 31187

Reg. Ent. Reference No. RN102441094

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), 334.50(b)(2) and 334.50(b)(2)(A)(i)(III)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to conduct proper release detection for the piping associated with the UST system. Specifically, the respondent did not conduct monthy monitoring or annual piping tightness test. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

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 -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one / use a small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended from the August 23, 2006 investigation date to the September 12, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $56

Statutory Limit Test

Violation Final Penalty Total $2,250

This violation Final Assessed Penalty (adjusted for limits) $2,250

Economic Benefit Worksheet

Respondent Kempwood Enterprises, LLC dba Chevron Mini Mart 3
Case ID No. 31187
Reg. Ent. Reference No. RN102441094
Media [Statute] Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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)	$1,500	23-Aug-2006	23-May-2007	0.7	$56	n/a	$56

Notes for DELAYED costs: Estimated cost to provide release detection for the USTs and piping associated with the USTs, and test the line leak detectors. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs							
	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$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]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $1,500

TOTAL $56

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date 12-Sep-2006 **Docket No.** 2006-1628-PST-E

Respondent Kempwood Enterprises, LLC dba Chevron Mini Mart 3

Case ID No. 31187

Reg. Ent. Reference No. RN102441094

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.242(3)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain the Stage II vapor recovery system in proper operating condition, including the absence or disconnection of any component that is a part of the approved system. Specifically, dispenser no. 4 had a nozzle that is not approved for use.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

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 -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the August 23, 2006 investigation date to the September 12, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $18

Statutory Limit Test

Violation Final Penalty Total $900

This violation Final Assessed Penalty (adjusted for limits) $900

Economic Benefit Worksheet

Respondent Kempwood Enterprises, LLC dba Chevron Mini Mart 3
Case ID No. 31187
Reg. Ent. Reference No. RN102441094
Media [Statute] Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$350	23-Aug-2006	23-May-2007	0.7	$1	$17	$18
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 Estimated cost to replace the dispenser nozzle. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$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]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $350

TOTAL $18

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date 12-Sep-2006 **Docket No.** 2006-1628-PST-E
Respondent Kempwood Enterprises, LLC dba Chevron Mini Mart 3
Case ID No. 31187
Reg. Ent. Reference No. RN102441094
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya

Violation Number	3
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.22(a)
Secondary Rule Cite(s)	Tex. Water Code § 5.702
Violation Description	Failed to pay outstanding UST fees for TCEQ Financial Assurance Account No. 0064327U for fiscal year 2006, as documented during a record review conducted on September 11, 2006.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Adjustment -$10,000

Base Penalty Subtotal $0

Violation Events

Number of Violation Events

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $0

No additional administrative penalty is recommended because penalty and interest will be assessed at the next billing.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $0

This violation Final Assessed Penalty (adjusted for limits) $0

Economic Benefit Worksheet

Respondent Kempwood Enterprises, LLC dba Chevron Mini Mart 3
Case ID No. 31187
Reg. Ent. Reference No. RN102441094
Media [Statute] Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
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	N/A						
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]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $0

TOTAL $0

Compliance History

Customer/Respondent/Owner-Operator:	CN602848137	Kempwood Enterprises, LLC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102441094	CHEVRON MINI MART 3	Classification: HIGH	Site Rating: 0.00

ID Number(s):	PETROLEUM STORAGE TANK STAGE II	REGISTRATION	29297
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	29297

Location:	2750 GESSNER DR, HOUSTON, TX, 77080	Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON	
Date Compliance History Prepared:	October 04, 2006	
Agency Decision Requiring Compliance History:	Enforcement	
Compliance Period:	October 04, 2001 to October 04, 2006	

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rajesh Acharya Phone: (512) 239-0577

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?	Yes
3. If Yes, who is the current owner?	Kempwood Enterprises, LLC
4. if Yes, who was/were the prior owner(s)?	Chevron U.S.A. Inc.
5. When did the change(s) in ownership occur?	10/20/2004

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 08/31/2006 (509955)
2 03/27/2003 (27966)

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
KEMPWOOD ENTERPRISES, LLC	§	
DBA CHEVRON MINI MART 3	§	
RN102441094	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1628-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 Kempwood Enterprises, LLC dba Chevron Mini Mart 3 ("Kempwood Enterprises") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Kempwood Enterprises appear before the Commission and together stipulate that:

1. Kempwood Enterprises owns and operates a convenience store with retail sales of gasoline at 2750 Gessner Drive in Houston, Harris County, Texas (the "Station").

2. Kempwood Enterprises' three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and Kempwood Enterprises agree that the Commission has jurisdiction to enter this Agreed Order, and that Kempwood Enterprises is subject to the Commission's jurisdiction.

4. Kempwood Enterprises received notice of the violations alleged in Section II ("Allegations") on or about September 5, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Kempwood Enterprises of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand One Hundred Fifty Dollars ($3,150) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Kempwood Enterprises has paid Two Thousand Five Hundred Twenty Dollars ($2,520) of the administrative penalty and Six Hundred Thirty Dollars ($630) is deferred contingent upon

Kempwood Enterprises' 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 Kempwood Enterprises fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Kempwood Enterprises 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 Kempwood Enterprises have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Kempwood Enterprises has not complied with one or more of the terms or conditions in this Agreed Order.

10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, Kempwood Enterprises is alleged to have:

1. Failed to monitor USTs for releases 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 August 23, 2006.

2. Failed to conduct proper release detection for the piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on August 23, 2006. Specifically, Kempwood Enterprises did not conduct monthly monitoring or annual piping tightness test.

3. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on August 23, 2006. Specifically, the line leak detectors had not been performance tested annually.

4. Failed to maintain the Stage II vapor recovery system in proper operating condition, including the absence or disconnection of any component that is a part of the approved system, in violation of 30

TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 23, 2006. Specifically, dispenser no. 4 had a nozzle that is not approved for use.

5. Failed to pay outstanding UST fees for TCEQ Financial Assurance Account No. 0064327U for fiscal year 2006, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, as documented during a record review conducted on September 11, 2006.

III. DENIALS

Kempwood Enterprises generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Kempwood Enterprises pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Kempwood Enterprises' 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: Kempwood Enterprises, LLC dba Chevron Mini Mart 3, Docket No. 2006-1628-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. It is further ordered that Kempwood Enterprises shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order:

      i. Install and implement a release detection method for the USTs and the piping associated with the USTs and conduct testing of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50;

      ii. Begin maintaining Stage II vapor recovery system in proper operating condition including but not limited to replacing the nozzle of dispenser no. 4, in accordance with 30 TEX. ADMIN. CODE § 115.242; and

iii. Submit payment of all outstanding fees, including any associated penalties and interest with the notation, "Kempwood Enterprises, LLC dba Chevron Mini Mart 3, TCEQ Financial Account No.0064327U", to the address in Paragraph 1 of this Section.

b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.a.iii.

The certification shall be notarized by a State of Texas Notary Public and 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."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

3. The provisions of this Agreed Order shall apply to and be binding upon Kempwood Enterprises. Kempwood Enterprises is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

4. If Kempwood Enterprises fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Kempwood Enterprises's failure to comply is not a violation of this Agreed Order. Kempwood Enterprises shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Kempwood Enterprises shall notify the Executive

Director within seven days after Kempwood Enterprises 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 Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Kempwood Enterprises shall be made in writing to the Executive Director. Extensions are not effective until Kempwood Enterprises receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against Kempwood Enterprises 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.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Kempwood Enterprises, or three days after the date on which the Commission mails notice of the Order to Kempwood Enterprises, 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

For the Executive Director

3/2/07
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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

Signature

11/14/06
Date

FIROZ A. KURJEE
Name (Printed or typed)
Authorized Representative of
Kempwood Enterprises, LLC dba Chevron Mini Mart 3

MEMBER
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 1 of this Agreed Order.