EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2002-0488-PST-E TCEQ ID: 46358 CASE NO.: 17031 RESPONDENT NAME: EUTEMIA MEDINA DBA O.A. GINGRICH

Page 1 of 3

__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER

__MUNICIPAL SOLID WASTE

__RADIOACTIVE WASTE

__USED OIL

<u>x</u> 1660 AGREED ORDER	FINDINGS AGREED ORDER	AMENDED ORDER
SHUTDOWN ORDER	FINDINGS DEFAULT ORDER	EMERGENCY ORDER
CASE TYPE:		
AGRICULTURE	AIR	INDUSTRIAL AND HAZARDOUS WASTE
OCCUPATIONAL CERTIFICATION	<u>X</u> PETROLEUM STORAGE TANKS	PUBLIC WATER SUPPLY
MULTI-MEDIA (check all that apply)	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL

SITE WHERE VIOLATION(S) OCCURRED: 121 North Vineyard, Sinton, San Patricio County

WATER QUALITY

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: X Yes No

OTHER SIGNIFICANT MATTERS: There are no previous 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 February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

ORDER TVPE.

USED OIL FILTER

TCEQ Attorney: Mr. Shawn Slack, Litigation Division, MC 175, (512) 239-0063; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Merrilee Gerberding, Enforcement Division, Section II, MC 1324, (512) 239-4490 TCEQ Regional Contact: Mr. Russell Lewis, Corpus Christi Regional Office, MC R-14, (361) 825-3100 Respondent: Ms. Eutemia A. Medina, Owner, Eutemia Medina dba O.A. Gingrich, 2702 South Port Corpus Christi, Texas 78405 Respondent's Attorney: Not represented by counsel.

RESPONDENT'S NAME: EUTEMIA MEDINA DBA O.A. GINGRICH DOCKET NO.: 2002-0488-PST-E

Page 2 of 3

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	
Type of Investigation: Complaint x Routine Enforcement Follow-up Records Review	Total Assessed: \$7,000	CORRECTIVE ACTIONS TAKEN/REQUIRED Ordering Provision(s)
Date(s) of Complaints Relating to this Case: None	Total Deferred: \$6,400	The Respondent shall undertake the following technical requirements: 1) Within 30 days:
Date(s) of Investigation(s) Relating to this Case: July 26, 2001	Expedited Settlement	
Date(s) of NOV(s)/NOE(s) Relating to this Case: August 17, 2001 (NOE)	<u>X</u> Financial Inability to Pay	a) Permanently remove the UST systems at the Facility from service;
Background Facts: Ms. Median 's PST facility was investigated in July 2001. At the time of the investigation, the PST facility was closed and not in operation. A NOE was issued in August 2001, but Ms. Medina failed to address the violations. Litigation filed the EDPRP on July 31, 2002. Before a Default Order was approved, Ms. Medina answered the EDPRP in January 2003. Her answer indicated that she was elderly and did not have any money to pay the administrative penalty. Staff attempted contact with Ms. Medina by sending her financial inability to pay	Total Paid/Due to General Revenue: \$50/\$550 The Respondent has paid \$50 of the un-deferred administrative penalty. The remaining amount	 b) Submit amended and updated UST registration information to indicate the current operational status of the UST system; and c) Submit payment for all required outstanding annual late UST Facility fees (UST facility account No. 0050099U0 for fiscal years 1994 through 2004.
documents. No response was received from the Respondent. The referral to SOAH was filed in April 2003. A preliminary hearing was held on July 10, 2003 and Ms. Medina's son appeared. A possible settlement was discussed. Ms. Medina provided financial inability to pay documents and the Financial Division determined a \$600 penalty was appropriate. This was consistent with the financial inability to pay policy at that time. An Agreed Order was signed by the parties and the	of \$550 shall be payable in 11 monthly payment of \$50 each. The first monthly payment shall be paid within 30 days after the effective date of the Order.	 Within 60 days, submit written certification and copies of documents necessary to demonstrate compliance with the above provisions.
case was remanded before the evidentiary hearing took place. The Agreed Order was signed by the Respondent on November 28, 2003, and by Lydia Gonzales Gromatzky on February 16, 2004. This case was assigned to the staff attorney currently handling this matter in November 2006. Initially, staff was unable to establish contact with the respondent. On March 9, 2007, in response to a hand-delivered letter, Respondent's son, who assisted Ms. Medina in this case, called the staff attorney. The Respondent is aware that this matter is being set for Agenda.	Major Source: Yes _X No Applicable Penalty Policy: January 1, 1999	
The Respondent's facility is not in operation and the tanks are emptied. Additionally, the Respondent in this case does not owe any other penalties according to the administrative database penalty report.		
PST		
1) Failed to demonstrate the required financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the USTs [30 TEX. ADMIN. CODE §37.815(a) and (b)].		

RESPONDENT'S NAME: EUTEMIA MEDINA DBA O.A. GINGRICH DOCKET NO.: 2002-0488-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
2) Failed to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between monitoring) and failing to monitor the piping connected to the UST system in a manner designed to detect releases from any portion of the UST piping system [30 TEX. ADMIN. CODE §334.50(b)(1)(A) and (2)(A), and TEX. WATER CODE § 26.3475].		
3) Failed to amend, update, or change the UST registration information in order to reflect current operational status within 30 days on the date on which the owner and/or operator became aware of the change [30 TEX. ADMIN. CODE §334.7(d)(3)].		
4) Failed to provide corrosion protection for the UST system [30 TEX. ADMIN. CODE §334.49(a) and TEX. WATER CODE § 26.3475].		
5) Failed to pay the required outstanding annual UST Facility fees for fiscal years 1994 through 2001 (UST facility Account No. 0050099U) [30 TEX. ADMIN. CODE § 334.22(a)].		· · · · · · · · · · · · · · · · · · ·

Page 3 of 3

	INCC	Penal	E\QCRC\documents\0 ty Calculation W 1. 1 (01/99) P		188-pst-e-qcp-Gi	ngrich.wb2 Go to Viol 1
	se Informat	-	. 1 (01/99)	CVV Tev. 12/06/2001		
Screening		n-2002				
				ority Due Date	15-May-2002	
		b-2002		C/SV Due Date		
Respo			ledina dba O.A. Gingri			
ID Num			D No. 46358 / Enf. ID			
	mber 2002-048			Facilit	y/Site Region	R14
Enf. Coordi	inator Erika Fai	f.		EC's U	nit or Region	Team 3
Type of (Order 1660			No. of Viola	tions in PCW	5
Case Pr	iority	3	Enter x for Ma	jor Source (as d		
Media-Prog	aram				Penalty Dollar	Limit
지수로 실험하는 것 같아?	gram Name(s)			Min	Max	
				alan maratakan di katala dan kana dan katala kata	ennessineriikiisiinnisenninkii keinekul	
	oleum Storage T	anks		\$0	\$10,000	
Wate	er Rights	<u>,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,</u>		\$0	\$5,000	
				\$0	\$2,500	
Publ	ic Water Supply			\$50	\$1,000	
Leve	es			\$0	\$1,000	
1	ic Water Utilities			\$0	\$500	
Adjustmen	ts to Subto	tal 1	Total Ba	se Penalty forwa	rd (subtotal 1)	\$7,000
Culı	bability (enhan	cement)			- In	3
	s the responden		Yes			•
and the second	of the culpabili		No	x		_
апу		ty criteria:	110			•
No	otes	No prior NOVs	for same or similar vio	ations.		
		•				
	L		Adjustment amo	ount (subtotal 2)	\$0	
Eco	nomic Benefit (enhancement)		ka k	•	
		in the first sector of the	tal of EB Amounts	\$3,558	_	
					•	
		ED EIII:	ancement (percent)	0%		
			Adjustment amo		\$0	
			Cost of Compliance	\$12,620	•	
Goo	d Faith Effort (to Comply (red	luction)		-	
1000年代時期時間 1月時間日本時期時間		Tim	ing of Action		•	
성장 영상량	Quality of A	ction _ Before N	NOV NOV to EDPRP of	or Order		
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		linary		0%	•	
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의 정상 2012년 1월 19일 - 1일			When only one, use			
No	otes	Respondent	is not yet in complian	ce.		
			• •			
1993년 1993년 1993년 1993년 199 1993년 1993년 199			Adjustment amo	unt (subtotal 3)	\$0	
Com	pliance History	y (enhancemer	to a strin within a stream way international stream with		•	
ayaan yaa aa daa aa aa daa daa aa daa daa daa	Enter Pe	CAL Samueland	0 (enter number only;	e a 30 for 30%		
	[[. 1		
Na	tes No histo		ndings orders, criminal	convictions or	•	
		Ju	idicial actions.		·····	
			Adjustment amo	unt (subtotal 4)	\$0	
			F	inal Subtotal		\$7,000
			•		L	
Other Fact	ors as justic	e may requ	iire			-
			ALL			•
E	nter Adjustme	it Percentage	(+/-) [/0](er	ter number only; e.g., -		•
	· _ /				Amount	\$0
No	tes					•
	(if more spac	ce is needed, increas	se row height)	Final Pen	alty Amount	\$7,000
			•	•		•
	Fil	nal Assessed	l Penalty (includir	ng any statutor	ry limit adj.)∏	\$7,000
Payable Pe						
	Deferral Perce	ntage	% enter number only; e	a 20 for 20%	Deferral	\$0
Ditter .		<u></u>	··· [[enter number only; e	.9., 20101 20%		φ0
No	tes No defe	rral is offered be	cause this is a non-ex	pedited case.		
		· · ·				
				Pava	ble Penalty	\$7,000

<u>ت:</u>

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	Screening Date	Jan-02	2 Docke	t Number 2	<u>-07-2002\2002-0488-pst-e</u> 002-0488-PST-E	PCW
		Euteá Medin	-			Picy. rev. 1 (01/99
	ID Number(s)			. ID 17031		PCW rev. 12/06/200
	Media [Statute]		age Tanks			
	Enf. Coordinator	1	-			
	iolation Number					
	rimary Rule Cite			TAC § 37.815	(a) &(b)	
	Secondary Cite(s)					
V 101:	ation Description	Failure to de action and for o	monstrate finance compensating th	cial responsib ird parties for	ility required for taking cor bodily injury and property	rective damage.
e al Calari	(Finding and all	Descort and	dinasen tiselt	L Matthe	Base	Penalty \$10,000
》	Environmental,	Flopeny and				•
	Release	Major	Harm	Minor		•
	Actual	Major	Moderate	Minor		•
OR	Potential				Percent	•
	Potential				rercent	· ·
) Decembra de la la	A	istranse te fas fr			
»	Programmatic N		<u> </u>			•
	Falsification	Major x	Moderate	Minor	Dawaant	
		L			Percent	10%
Matrix Notes		100% of the	e requirement wa	as not met.		
					Adjustment	(\$9,000)
	N/1 12				Base Penalty S	Subtotal \$1,000
	Violation Events	and a set water and the set of the	1	7		•
	Number of Vi	olation Events		<u>]</u>		
		daily		7		•
mark	only one; use small x					•
		monthly quarterly				•
		semiannual			Violation Base I	Penalty \$1,000
		annual			violation base i	
		single event				
	l	Single event	L	<u>1</u>		
_						
Events Notes	One annual eve	nt is recommend preceding the in	led based on the spection date of	e previous twe July 26, 2001	lve month period	
NOLES			1.1.2	S	tatutory Limit Test	
	Economic Bene	fit (EB) for this	s violation		leteroly/Linite 1.000	
, NOLES		fit (EB) for this B Amount (\$)			Violation Final Penal	ty total \$1,000
		B Amount (\$)	\$2,520]		

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Page 3 of 11	05/07/02 H	H:\ENFORCE\QCF				-qcp-Gingrich.wb	2
		and the second	Benefit Wor	rkshee)t		
Respondent Eu		-			F		
ID Number(s) PS Media [Statute] Pe	•		17031		- - - - -	Percent Interest	Years of Depreciation
Violation Number	1				Â	5.0	15 15 15 15 15 15 15 15 15 15 15 15 15 1
ltem	ltem Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description [№]	o commas or \$				n an		
Delayed Costs	249-154 - SHE						ang ang sana panang sa Sangal na pana banang sa
Equipment		ľ		0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	<u>\$0</u>
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
Avoided Costs							
Avoided Costs Disposal	<u> </u>	ANNUALIZE [1] av	Voided costs be	1	T.		
Personnel				0.0	\$0 \$0	\$0 \$0	\$0 \$0
nspection/Reporting/Sampling				0.0	\$0 \$0	<u>\$0</u> \$0	<u></u>
Supplies/equip				0.0	<u>\$0</u> \$0	\$0	<u>\$0</u> \$0
Financial Assurance [2]	\$2,400	26-Jul-2000	26-Jul-2001	1.0	\$120	\$2,400	\$2,520
ONE-TIME avoided costs [3]				0.0	\$0	\$0	<u>φ2,020</u> \$0
Other (as needed)				0.0	\$0	\$0	<u>\$0</u>
Notes for AVOIDED costs	I	Approxim	ate cost to obtain		assurance for 4		<u>.</u>
Approx Cost of Compliance	\$2,400				•	TOTAL	\$2,520

	4 of 11 05/0	7/02 H:\ENF			5-07-2002\2002-0488-pst-e-	qcp-Gingrich.wb2 PCW
2	Creening Date	Eutea Medina	and the second state of th		2002-0488-PST-E	Plcy. rev. 1 (01/99)
	ID Number(s)		-		~~	PCW rev. 12/06/2001
	ledia [Statute]			. 10 17031		
	f. Coordinator		age ranks			
	ation Number	2	ז			
	nary Rule Cite	<u> </u>		334 50(h)(1)(A) & (b)(2)(A)	
	ondary Cite(s)			Water Code		
	on Description	Eciluro to monit			stem in a manner designed to	dotoot
, iointi		releases from	any portion of th	e piping sys	tem and failure to monitor U (not to exceed 35 days).	
					Base	Penalty \$10,000
» E	nvironmental,	Property and	Human Healt	h Matrix		-
- 31- 160 m 			Harm			
	Release	Major	Moderate	Minor		
OR	Actual	[ľ			
	Potential	x			Percent	25% •
	· · · ·	· · · · · · · · · · · · · · · · · · ·		<u>. </u>	L	•
» Pi	ogrammatic N	latrix				
en neuen er en	Falsification	Major	Moderate	Minor		•
					Percent	•
				<u> </u>		
Matrix Fa Notes		ne piping of the or the environm			tection could result in cant pollutants.	•
	<u></u>				Adjustment	(\$7,500) • • • •
_					Base Penalty S	ubtotal \$2,500
Vi	olation Events	Will be opposite the	and the substances		Stores I. with period one lines to	- -
	Number of Vie	olation Events	1			
mark only	y one; use small x	daily				
		monthly				•
		quarterly				
		semiannual	x		Violation Base P	enalty \$2,500
		annual				·
		single event				
	1					
- Or	e semi-annual e	vent is recomme	nded based on	the July 26.	2001 inspection date	
		2002 date of sci	reening to make		commensurate with	
			the situation.			
Ec	conomic Benef	it (EB) for this	violation	્ર	Statutory Limit Test	
	Estimated E	B Amount (\$)	\$239		Violation Final Penalt	y total \$2,500
						- Kak teka resulu menar kak kaka yang menangkan kaka sebagai menangkan kaka sebagai kaka kaka kaka kaka kaka k
		This Vio	lation Final J	Assessed	Penalty (adjusted for	limits) \$2,500
				IR CONTRACTOR AND AND A	The second s	STREET, AND

Page 5 of 11 Respondent	05/07/02 H Eutemia Mecura d	and and the forder of the Potenties of Independent of the	RC\documents\05 Benefit Woi			e-qcp-Gingrich.wt)2
ID Number(s) Media [Statute]	PST Facility ID No Petroleum Storage	· · · · · · · · · · · · · · · · · · ·	17031			Percent Interest	Years of Depreciation
Violation Number	2	·	na na sa kata sa			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
Avoided Costs		ANNUALIZE [1] a	voided costs bei	fore ente	ring item (excer	t for one-time a	voided costs)
Disposal	1			0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$200	26-Jul-2001	15-Sep-2002	1.1	\$11	\$228	\$239
Supplies/equip		· · · · ·		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		Approximate	cost to monitor f				
Approx Cost of Compliance	\$200					TOTAL	\$239

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Pa	age 6 of 11 05/0				-07-2002\2002-0488-pst-e	
	Screening Date		and a state of the particular second	a producer contraction of the	2002-0488-PST-E	PCW
		Eutea Medina				Plcy. rev. 1 (01/99) PCW rev. 12/06/2001
	ID Number(s)			. ID 17031		PCW rev. 12/06/2001
	Media [Statute]		ge Tanks			
	Enf. Coordinator	Erika Fair	T			
	iolation Number	3				
	rimary Rule Cite	-	31	D TAC § 334.	7(d)(3)	
	econdary Cite(s)					
Viol	ition Description				or any change or additionally a change in operational	status.
na sere parati					Base	Penalty \$10,000
»	Environmental,	Property and H		h Matrix		• •
			Harm			•
	Release	Major	Moderate	Minor		•
OR	Actual				r	•
ત્યાં છે. કે કે કે બેલ્લ અંગર તેવું છે. તેવું છે.	Potential				Percent	· .
				*****		•
»	Programmatic N	latrix				
	Falsification	Major	Moderate	Minor		•
		x	· · · · · ·		Percent	10% ·
Matrix Notes		100% of the	requirement wa	as not met.	Adjustment	(\$9,000)
					Base Penalty	
an din di	Violation Events	and the second				1966 S
	see a third definition definition and third and the second statement of	plation Events	1]		
		Ľ		1		
mark	only one; use small x	daily]		
		monthly		1		
		quarterly				
		semiannual		1	Violation Base	Penalty \$1,000
		annual				
		single event	x	1		
	,			긘		
Events Notes	One single even	t is recommende	d based on the	July 26, 2001	1 inspection date.	
	Economic Benel	it (EB) for this	violation	S	tatutory Limit Test	, ,
	Estimated E	B Amount (\$)[\$1		Violation Final Penal	<i>ity total</i> \$1,000
		This Vio	lation Final	Assessed	Penalty (adjusted for	r limits) \$1,000
-		Wheelshift he of the light			. enany (aujuotou ioi	

Page 7 of 11	05/07/02 H	I:\ENFORCE\QCF	RC\documents\05	-07-2002	2\2002-0488-pst-	e-qcp-Gingrich.wb	2
	\sim	Economic	Benefit Wor	rkshee	et 📝		
Respondent	Eutemia Meua dl	ba O.A. Gingrich					
ID Number(s)	PST Facility ID No	. 46358 / Enf. ID	17031			Percent	Years of
Media [Statute]	Petroleum Storage	e Tanks				Interest	Depreciation
Violation Number	· 3				مرور المراجعة المراجعة المراجعة المراجعة	.5.0	15
	ltem	Date	Final	Yrs	Interest	Onetime	ËB
Item Description	Cost No commas or \$	Required	Date		Saved	Costs	Amount
Description		edital de la desta de la composición de La composición de la c	sh tahan da ƙƙƙƙƙasar	la la redadd Mae	driana difficility on the col		h-dastlakZellienselbil
Delayed Costs		kan kan kan		li de la companya de			
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				Ó.O	\$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) Notes for DELAYED costs	\$20	26-Jul-2001	15-Sep-2002	1.1	\$1	n/a	\$1
	- E-1 A Standa Cardon Correl		cost to submit ar			ninger ander a	e en tra contra care e
Avoided Costs Disposal	<u></u> A	ANNUALIZE [1] a	voided costs be			pt for one-time a	
Personnel		: 		0.0	\$0	\$0	<u>\$0</u>
nspection/Reporting/Sampling				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Supplies/equip				0.0	پر \$0	<u>\$0</u> \$0	\$0\$0
Financial Assurance [2]	i			0.0	پ 0 \$0	\$0	\$0 \$0
ONE-TIME avoided costs [3]		······································		0.0	\$0 \$0	\$0	<u> </u>
Other (as needed)		l		0.0	\$0 \$0	\$0	\$0 \$0
Notes for AVOIDED costs	N	I	i		Ψ0	, ,	<u> </u>
	L <u></u>						
Approx Cost of Compliance							

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Pa					05-07-2002\2002-0488-pst-e-	ccp-Gingrich.wb2
	Screening Date	Jan-02 Eutea Medina (2002-0488-PST-E	Picy. rev. 1 (01/99
	요즘 집을 가려서 물리는 것이라 전문을		-		~	PCW rev. 12/06/200
		PST Facility ID N		. 10 17031		
1	Media [Statute]		je ranks			
	Enf. Coordinator					
	iolation Number rimary Rule Cite	+	3	0 TAC § 33	4 40(2)	<u> </u>
	Secondary Cite(s)			Water Code	<u> </u>	·
	ation Description		Tex.		5 8 20.0470	
101		Failure	e to provide co	rrosion prot	ection for the UST system.	
*	Environmental,	Droporty and L	lumon Hoolt	h Motrix	Base	Penalty \$10,000
化电力中间		порену ано н	Harm			•
	Release	Major	Moderate	Minor		•
OR			MOUGIALE		1	•
UN C	Actual Potential	×			Percent	25%
	Fotential				I CI CCIII	2370
	Decementaria	A-L-I.				•
>	Programmatic N					•
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					Percent	
Matrix Notes		g exposed to pollu			d levels protective of	(\$7,500)
				,	Base Penalty S	
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	ta i paiste se variante en la tradició de seconda de la paíste de la companya de la companya de la companya de	olation Events	1]		
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	•			9		
Events					te of July 26, 2001, to mmensurate with the	
Notes			situation.			
	Economic Benel	it (EB) for this v	violation	the constant	Statutory Limit Test	
	Estimated E	B Amount (\$)	\$798		Violation Final Penalt	ty total \$2,500
		This Vial	ation Einal	Accorcor	l Penalty (adjusted for	limite) \$2.500
and south from		1115 11010	auvn rindi i	-3353361	η επαιτή (αυμυδιεύ 10)	<i>limits</i>) \$2,500

Page 9 of 11	05/07/02 ł					-e-qcp-Gingrich.wb	2
		Economic	Benefit Wor	rkshee	ət 👘		
Respondent I	Eutemia Meua c	lba O.A. Gingrich			<u> </u>		
ID Number(s)	PST Facility ID No	o. 46358 / Enf. ID [·]	17031			Percent	Years of
Media [Statute]	⊃etroleum Storag	e Tanks				Interest	Depreciation
Violation Number	4					5.0	1
	ltem	Date	Final	Yrs	Interest	Onetime	EB
Item	Cost	Required	Date		Saved	Costs	Amount
Description	No commas or \$				le transie en prisérie i		Persidente e la
ale de la companya	References de la composition de la comp	an ta an an		2404.437.4			
Delayed Costs		1993) - 1993 - 1993 1				<u>- 2000 - 2000 - 2000</u> 1	
Equipment				0.0	\$0	\$0	\$(
Buildings	¢10.000	00.101.0001	45 0 0000	0.0	\$0	\$0	\$(
Other (As needed)	\$10,000	26-Jul-2001	15-Sep-2002	1.1	\$38	\$760	\$798
Engineering/construction		· · · · · · · · · · · · · · · · · · ·		0.0	\$0	\$0	\$(
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$(
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
			ost to install corro	the metra		e in the second se	
Avoided Costs Disposal	n de service de la companya de la co A companya de la comp		voided costs bei	ore ente	ering item (exce \$0	pt for one-time a \$0	/oided costs) \$(
Personnel		· ·		0.0	\$0 \$0	\$0	\$0 \$0
Inspection/Reporting/Sampling				0.0	\$0	\$0 \$0	\$0 \$0
Supplies/equip				0.0	\$0	\$0	\$0 \$0
Financial Assurance [2]				0.0	\$0 \$0	\$0 \$0	\$0 \$0
ONE-TIME avoided costs [3]				0.0	\$0 \$0	\$0 \$0	\$C
Other (as needed)				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Notes for AVOIDED costs			:	0.01	ψυ	ψ0 [φυ
Approx Cost of Compliance	\$10,000					TOTAL	\$798

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	Cnf. Coordinator E	rika Fair 5	1					
	imary Rule Cite	J	3	0 TAC § 334.2	22(a)			
	econdary Cite(s)			· · · · ·				
Violation Description		Failure to pay late fees for account 0050099U.						
17 Subjections					Base Penalty	\$10,00		
»	Environmental, Pi	roperty and I	Human Healt Harm	n Matrix		•		
	Release	Major	Moderate	Minor				
OR	Actual		· .		~ / · · · · · · · · · · · · · · · · · ·	•		
	Potential				Percent	•		
»	Programmatic Ma	trix						
Г	Falsification	Major	Moderate	Minor		•		
					Percent	•		
Matrix Notes								
_					Adjustment (\$10,000)			
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	Number of Viola	ation Events						
		6		ב		•		
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mark o	only one; use small x	daily				-		
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Ĩ	only one; use small x	monthly quarterly semiannual annual single event	ssessed for this	violation.	Violation Base Penalty	: \$(
Events Notes		monthly quarterly semiannual annual single event No penalty a				: \$(
Events Notes	only one; use small x	monthly quarterly semiannual annual single event No penalty a			Violation Base Penalty	: \$(

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Respondent E	Eutemia Meua	dba O.A. Gingrich	1	•				
ID Number(s) F	PST Facility ID N	No. 46358 / Enf. IC	17031			Percent	Years of Depreciation	
Media [Statute] F	Media [Statute] Petroleum Storage Tanks							
Violation Number	5					5.0	1	
Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
Delayed Costs								
Equipment	julian propinsti kati kanga olipuna	er of help of help of help and help of	la statistici di statistici 1	0.0	\$0	\$0	\$(
Buildings			1	0.0		\$0	\$(
Other (As needed)				0.0	\$0\$0	\$0	\$(
Engineering/construction	·····			0.0	\$0 \$0	\$0	\$(
Land				0.0	\$0 \$0	n/a	\$(
Record Keeping System				0.0	<u>\$0</u> \$0	n/a	\$(
Training/Sampling				0.0	\$0 \$0	n/a	\$(
Remediation/Disposal				0.0	<u>\$0</u>	n/a	\$(
Permit Costs				0.0	\$0	n/a	\$(
Other (As Needed)]	/	0.0	\$0	n/a	\$0	
•	and a second second	No	economic benefit		d with this violat	ion.	a marina da seconda est	
Avoided Costs Disposal		ANNUALIZE [1]	avoided costs b			pt for one-time a		
Personnel		i		0.0	<u>\$0</u> \$0	\$0 \$0	\$C \$C	
nspection/Reporting/Sampling	· · · · · · · · · · · · · · · · · · ·			0.0	\$0 \$0	\$0	\$C \$C	
Supplies/equip		P	L	0.0	\$0 . \$0	\$0	<u> </u>	
Financial Assurance [2]				0.0	<u> </u>	\$0	\$C \$C	
ONE-TIME avoided costs [3]			L <u></u>	0.0	\$0 \$0	\$0	\$C \$C	
Other (as needed)		1	L	0.0	\$0 \$0	\$0 \$0	\$C	
Notes for AVOIDED costs			L		<u> </u>	<u> </u>		
Approx Cost of Compliance	\$0	1				TOTAL	\$0	

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING EUTEMIA MEDINA DBA O.A. GINGRICH, TCEO ID NO. 46358

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2002-0488-PST-E

I. JURISDICTION AND STIPULATIONS

At its _______ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Eutemia Medina dba O.A. Gingrich ("Ms. Medina") under the authority of TEX. WATER CODE § 5.702 and chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Medina, appear before the Commission and together stipulate that:

- 1. Ms. Medina owns a convenience store known as O. A. Gingrich with four underground storage tanks ("USTs"), that formerly dispensed gasoline for retail sales, located at 121 North Vineyard, Sinton, San Patricio County, Texas (the "Facility"). The Facility was abandoned and gasoline dispensing operations ceased on or before September 30, 1996.
- 2. Ms. Medina's USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Ms. Medina's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
- 3. The Commission and Ms. Medina agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Medina is subject to the Commission's jurisdiction.

4. Ms. Medina received notice of the violations alleged in Section II ("Allegations") on or about August 22, 2001.

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

6. An administrative penalty in the amount of seven thousand dollars (\$7,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Ms. Medina and determined that Ms. Medina is unable to pay part of the administrative penalty. Therefore, six thousand four hundred dollars (\$6,400.00) of the penalty is deferred contingent upon Ms. Medina'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 Ms. Medina fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Ms. Medina to pay all or part of the deferred penalty.

Ms. Medina has paid fifty dollars (\$50.00) dollars of the undeferred administrative penalty. The remaining amount of five hundred fifty dollars (\$550.00) shall be payable in 11 monthly payments of fifty dollars (\$50.00) dollars each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment. If Ms. Medina fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at her option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Ms. Medina to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

- 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 Ms. Medina 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 Ms. Medina 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

Ms. Medina is alleged to have violated:

- 1. 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to demonstrate the required financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the USTs, as documented during an investigation by a TCEQ Corpus Christi Regional office investigator on July 26, 2001;
- 2. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (2)(A), and TEX. WATER CODE § 26.3475, by failing to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between monitoring) and failing to monitor the piping connected to the UST system in a manner designed to detect releases from any portion of the UST piping system, as documented during an investigation by a TCEQ Corpus Christi Regional office investigator on July 26, 2001;
- 3. 30 TEX. ADMIN. CODE § 334.7(d)(3), by failing to amend, update, or change the UST registration information in order to reflect current operational status within 30 days on the date on which the owner and/or operator became aware of the change, as documented during an investigation by a TCEQ Corpus Christi Regional office investigator on July 26, 2001;
- 4. 30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475, by failing to provide corrosion protection for the UST system, as documented during an investigation by a TCEQ Corpus Christi Regional office investigator on July 26, 2001; and
- 5. 30 TEX. ADMIN. CODE § 334.22(a), by failing to pay the required outstanding annual UST Facility fees for fiscal years 1994 through 2001 (UST facility Account No. 0050099U), as documented during an investigation by a TCEQ Corpus Christi Regional office investigator on July 26, 2001.

III. DENIALS

Ms. Medina generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Ms. Medina pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Medina'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 considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Eutemia Medina dba O.A. Gingrich, Docket No. 2002-0488-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. Ms. Medina shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of the Agreed Order, Ms. Medina shall:
 - i. Permanently remove the UST systems at the Facility from service in accordance with 30 TEX. ADMIN. CODE § 334.55;
 - ii. Submit amended and updated UST registration information to indicate the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7(d)(3) (relating to Registration) to:

Petroleum Storage Tank Registration Program (MC-138) Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

- iii. Submit payment for all required outstanding annual late UST Facility fees (UST facility account No. 0050099U) for fiscal years 1994 through 2004.
- b. Within 60 days after the effective date of the Agreed Order, submit written certification and copies of documents necessary to demonstrate compliance with the requirements of 2.a.i, 2.a.ii, and 2.a.iii to:

> Merrilee Gerberding, Coordinator Enforcement Division, MC 134 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3088

and

Russell Lewis, Waste Section Manager Texas Commission on Environmental Quality Corpus Christi Regional Office 6300 Ocean Drive, Suite 1200 Corpus Christi, Texas 78412-5503

- 3. The provisions of this Agreed Order shall apply to and be binding upon Ms. Medina. Ms. Medina 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.
- 4. If Ms. Medina 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, Ms. Medina's failure to comply is not a violation of this Agreed Order. Ms. Medina shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Medina shall notify the Executive Director within seven days after Ms. Medina 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 Ms. Medina shall be made in writing to the Executive Director. Extensions are not effective until Ms. Medina 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 Ms. Medina 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. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Ms. Medina, or three days after the date on which the Commission mails notice of the Order to Ms. Medina, 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

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.

Signature

Eutenia A. Medina

Name (Printed or typed) Authorized representative of Eutemia Medina dba O.A. Gingrich

Lydia González Gromatzky 32 Deputy Director Office of Legal Services Texas Commission on Environmental Quality

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Instructions: Send the original signed Signature Page and all pages of this Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

11-28-03 Date

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Title