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 | | |
| 이라고 한 가슴이 가슴이 있다. - 아니라이 가슴이 있는 것이 같이 있는 것이 같이 있다. | Extraoro | linary | | Percent | • | |
| | | linary | | 0% | • | |
| | None of the | - | (mark only one; use | | | |
| 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 |

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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 |
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| Delayed Costs | | kan kan kan | | li de la companya de | | | |
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
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| 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 |
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| | 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% |
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| Matrix Notes | | g exposed to pollu | | | d levels protective of | (\$7,500) |
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| | Violation Events | | | | Disc i childy S | |
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| | | annual | | | | |
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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 | | | |
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| 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 |
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| Personnel | | · · | | 0.0 | \$0 \$0 | \$0 | \$0 \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 \$0 | \$0 \$0 |
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| | | | | | | | |
| 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 | • | | |
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| | | | | | Percent | • | | |
| Matrix Notes | | | | | | | | |
| _ | | | | | Adjustment (\$10,000) | | | |
| | Violation Events | | | | Base Penalty Subtotal | \$ | | |
| | Number of Viola | ation Events | | | | | | |
| | | 6 | | ב | | • | | |
| | T | | | | | • | | |
| mark o | only one; use small x | daily | | | | - | | |
| mark o | only one; use small x | monthly | | | | • | | |
| mark o | only one; use small x | - 1 | | | Violation Base Penalty | \$(| | |
| mark o | only one; use small x | monthly quarterly semiannual annual | | | Violation Base Penalty | \$(| | |
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| mark o | only one; use small x | monthly quarterly semiannual annual single event | seesed for this | violation | Violation Base Penalty | \$(| | |
| Ĩ | only one; use small x | monthly quarterly semiannual annual single event | ssessed for this | violation. | Violation Base Penalty | : \$(| | |
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| Page 11 of 11 | 05/07/02 | H:\ENFORCE\Q | CRC\documents\ | 05-07-200 | 2\2002-0488-ps | t-e-qcp-Gingrich.w | b2 | |
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| | anna an 1988. Na taoinn an 1987 | Economic | : Benefit Wo | orkshee | et 👘 | and an | Na 160 de sé | |
| 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 | |
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| 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 | \$(| |
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| • | 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 | | |
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| nspection/Reporting/Sampling | · · · · · · · · · · · · · · · · · · · | | | 0.0 | \$0 \$0 | \$0 | \$C \$C | |
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| Financial Assurance [2] | | | | 0.0 | <u> </u> | \$0 | \$C \$C | |
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| 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