

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

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

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

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: 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:

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: July 26, 2001</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: August 17, 2001 (NOE)</p> <p>Background Facts: Ms. Medina'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 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 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.</p> <p>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.</p> <p>PST</p> <p>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)].</p>	<p>Total Assessed: \$7,000</p> <p>Total Deferred: \$6,400</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input checked="" type="checkbox"/> Financial Inability to Pay</p> <p>Total Paid/Due to General Revenue: \$50/\$550</p> <p>The Respondent has paid \$50 of the un-deferred administrative penalty. The remaining amount 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.</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: January 1, 1999</p>	<p>Ordering Provision(s)</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1) Within 30 days:</p> <p>a) Permanently remove the UST systems at the Facility from service;</p> <p>b) Submit amended and updated UST registration information to indicate the current operational status of the UST system; and</p> <p>c) Submit payment for all required outstanding annual late UST Facility fees (UST facility account No. 0050099U0 for fiscal years 1994 through 2004.</p> <p>2) Within 60 days, submit written certification and copies of documents necessary to demonstrate compliance with the above provisions.</p>

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
<p>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].</p> <p>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)].</p> <p>4) Failed to provide corrosion protection for the UST system [30 TEX. ADMIN. CODE §334.49(a) and TEX. WATER CODE § 26.3475].</p> <p>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)].</p>		



TNRCC

Penalty Calculation Worksheet

Plcy. rev. 1 (01/99)

PCW rev. 12/06/2001



Case Information

Screening Date	15-Jan-2002	Case Priority Due Date	15-May-2002
PCW Date	19-Feb-2002	EPA SNC/SV Due Date	
Respondent	Eutemia Medina dba O.A. Gingrich		
ID Number(s)	PST Facility ID No. 46358 / Enf. ID 17031		
Docket Number	2002-0488-PST-E	Facility/Site Region	R14
Enf. Coordinator	Erika Fair	EC's Unit or Region	Team 3
Type of Order	1660	No. of Violations in PCW	5
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program		Admin. Penalty Dollar Limit	
x	Program Name(s)	Min	Max
x	Petroleum Storage Tanks	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1 Total Base Penalty forward (subtotal 1) \$7,000

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: No prior NOVs for same or similar violations.

Adjustment amount (subtotal 2) \$0

Economic Benefit (enhancement)

Total of EB Amounts \$3,558

EB Enhancement (percent) 0%

Adjustment amount (subtotal 5) \$0

Approx. Cost of Compliance \$12,620

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDPRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	<i>(mark only one; use small x)</i>	

Notes: Respondent is not yet in compliance.

Adjustment amount (subtotal 3) \$0

Compliance History (enhancement)

Enter Percent 0 *(enter number only; e.g., 30 for 30%)*

Notes: No history of previous findings orders, criminal convictions or judicial actions.

Adjustment amount (subtotal 4) \$0

Final Subtotal \$7,000

Other Factors as justice may require

Enter Adjustment Percentage (+/-) % *(enter number only; e.g., -30 for -30%)*

Amount \$0

Notes:
(if more space is needed, increase row height)

Final Penalty Amount \$7,000

Final Assessed Penalty (including any statutory limit adj.) \$7,000

Payable Penalty

Enter Deferral Percentage % *(enter number only; e.g., 20 for 20%)*

Deferral \$0

Notes: No deferral is offered because this is a non-expedited case.

Payable Penalty \$7,000

Screening Date Jan-02 **Docket Number** 2002-0488-PST-E **PCW**
Respondent Eute...a Medina dba O.A. Gingrich **Plcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 46358 / Enf. ID 17031 **PCW rev. 12/06/2001**
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator Erika Fair
Violation Number 1
Primary Rule Cite 30 TAC § 37.815(a) &(b)
Secondary Cite(s)
Violation Description Failure to demonstrate financial responsibility required for taking corrective action and for compensating third parties for bodily injury and property damage.

Base Penalty \$10,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

OR

» **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the requirement was not met.

Adjustment (\$9,000)

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

Events Notes One annual event is recommended based on the previous twelve month period preceding the inspection date of July 26, 2001.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$2,520	Violation Final Penalty total \$1,000
This Violation Final Assessed Penalty (adjusted for limits) \$1,000	

Economic Benefit Worksheet

Respondent Euternia Me...a dba O.A. Gingrich
ID Number(s) PST Facility ID No. 46358 / Enf. ID 17031
Media [Statute] Petroleum Storage Tanks
Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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

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/equip				0.0	\$0	\$0	\$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	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approximate cost to obtain financial assurance for 4 USTs.

Approx Cost of Compliance \$2,400

TOTAL \$2,520

Screening Date	Jan-02	Docket Number	2002-0488-PST-E	PCW
Respondent	Eute...a Medina dba O.A. Gingrich			Plcy. rev. 1 (01/99)
ID Number(s)	PST Facility ID No. 46358 / Enf. ID 17031			PCW rev. 12/06/2001
Media [Statute]	Petroleum Storage Tanks			
Enf. Coordinator	Erika Fair			
Violation Number	2			
Primary Rule Cite	30 TAC § 334.50(b)(1)(A) & (b)(2)(A)			
Secondary Cite(s)	Tex. Water Code § 26.3475			
Violation Description	Failure to monitor the piping of the UST system in a manner designed to detect releases from any portion of the piping system and failure to monitor USTs for releases at least once per month (not to exceed 35 days).			

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix				
	Harm			
	Major	Moderate	Minor	
OR	Actual			
	Potential	x		
				Percent 25%

» Programmatic Matrix				
	Major	Moderate	Minor	
				Percent

Matrix Notes Failure to monitor the piping of the UST system and release detection could result in human health or the environment being exposed to significant pollutants.

Adjustment (\$7,500)
Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

<i>mark only one; use small x</i>	daily		
	monthly		
	quarterly		
	semiannual	x	
	annual		
	single event		

Violation Base Penalty \$2,500

Events Notes One semi-annual event is recommended based on the July 26, 2001 inspection date to the January 15, 2002 date of screening to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$239 **Violation Final Penalty total** \$2,500

This Violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Eutemia Media dba O.A. Gingrich
ID Number(s) PST Facility ID No. 46358 / Enf. ID 17031
Media [Statute] Petroleum Storage Tanks
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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

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	\$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 for release detection and test piping.

Approx Cost of Compliance \$200

TOTAL \$239

Screening Date Jan-02 **Docket Number** 2002-0488-PST-E **PCW**
Respondent Eute...a Medina dba O.A. Gingrich **Plcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 46358 / Enf. ID 17031 **PCW rev. 12/06/2001**
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator Erika Fair
Violation Number 3
Primary Rule Cite 30 TAC § 334.7(d)(3)
Secondary Cite(s)
Violation Description Failure to provide amended registration for any change or additional info regarding USTs within 30 days, specifically a change in operational status.

Base Penalty \$10,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

OR

» **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the requirement was not met.

Adjustment (\$9,000)

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes One single event is recommended based on the July 26, 2001 inspection date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$1	Violation Final Penalty total \$1,000
This Violation Final Assessed Penalty (adjusted for limits) \$1,000	

Economic Benefit Worksheet

Respondent Eutemia Me... dba O.A. Gingrich
ID Number(s) PST Facility ID No. 46358 / Enf. ID 17031
Media [Statute] Petroleum Storage Tanks
Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$20	26-Jul-2001	15-Sep-2002	1.1	\$1	n/a	\$1

Notes for DELAYED costs

Average cost to submit amended registration information.

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/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

Approx Cost of Compliance

TOTAL

Screening Date Jan-02 **Docket Number** 2002-0488-PST-E **PCW**
Respondent Eute...a Medina dba O.A. Gingrich **Plcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 46358 / Enf. ID 17031 **PCW rev. 12/06/2001**
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator Erika Fair
Violation Number 4
Primary Rule Cite 30 TAC § 334.49(a)
Secondary Cite(s) Tex. Water Code § 26.3475
Violation Description Failure to provide corrosion protection for the UST system.

Base Penalty \$10,000

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

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential	x			Percent 25%

» **Programmatic Matrix**

		Major	Moderate	Minor	
Matrix Notes	Falsification				Percent
	Failure to operate a corrosion protection system could result in human health or the environment being exposed to pollutants which would exceed levels protective of the environment.				

Adjustment (\$7,500)

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily		
monthly		
quarterly		
semiannual	x	Violation Base Penalty \$2,500
annual		
single event		

Events Notes One semiannual event is recommended from the inspection date of July 26, 2001, to the screening date of January 15, 2002, to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$798 **Violation Final Penalty total** \$2,500

This Violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent: Eutemia Me... dba O.A. Gingrich
ID Number(s): PST Facility ID No. 46358 / Enf. ID 17031
Media [Statute]: Petroleum Storage Tanks
Violation Number: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$10,000	26-Jul-2001	15-Sep-2002	1.1	\$38	\$760	\$798
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 install corrosion protection for the UST system.

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/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

Approx Cost of Compliance \$10,000

TOTAL \$798

Screening Date: Jan-02 **Docket Number:** 2002-0488-PST-E **PCW**
Respondent: Eute...a Medina dba O.A. Gingrich **Plcy. rev. 1 (01/99)**
ID Number(s): PST Facility ID No. 46358 / Enf. ID 17031 **PCW rev. 12/06/2001**
Media [Statute]: Petroleum Storage Tanks
Enf. Coordinator: Erika Fair
Violation Number: 5
Primary Rule Cite: 30 TAC § 334.22(a)
Secondary Cite(s):
Violation Description: Failure to pay late fees for account 0050099U.

Base Penalty \$10,000

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

OR	Harm			Percent
	Release	Major	Moderate	
Actual				
Potential				

» **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 small x

daily	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty \$0

Events Notes

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) <input type="text" value="\$0"/>	Violation Final Penalty total <input type="text" value="\$0"/>
This Violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$0"/>	

Economic Benefit Worksheet

Respondent Eutemia Me... dba O.A. Gingrich
ID Number(s) PST Facility ID No. 46358 / Enf. ID 17031
Media [Statute] Petroleum Storage Tanks
Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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

No economic benefit associated with this violation.

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/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

Approx Cost of Compliance

TOTAL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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

§
§
§
§
§
§

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.

Eutemia A. Medina
Signature

11-28-03
Date

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

Owner
Title

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

2/16/04
Date

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.