

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NUMBER: 2003-1165-PST-E TCEQ ID NO: RN102035367 ENF ID: 9684**  
**RESPONDENT NAME: UPPAL BROS., INC. DBA SAVE WAY FOOD MART**

**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	<input type="checkbox"/> DRY CLEANER REGISTRATION	

**SITE WHERE VIOLATION(S) OCCURRED:** 6620 Brentwood Stair Road, Fort Worth, Tarrant 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 12, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Shawn A. Slack, Litigation Division, MC 175, (512) 239-0063; Ms. Jennifer Cook, Litigation Division, MC 175 (512) 239-1873

**TCEQ Enforcement Coordinator:** Ms. Judy Kluge, Enforcement Division, MC R-4, (817) 588-5825

**TCEQ Regional Contact:** Mr. Samuel L. Barrett, DFW Regional Office, MC R-4, (817) 588-5903

**Respondent:** Mr. Rashpal Singh, Registered Agent, Uppal Bros., Inc., 1501 Knoll Ridge Circle, Corinth, Texas 76205

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

**RESPONDENT'S NAME: UPPAL BROS., INC. DBA SAVE WAY FOOD MART**  
**DOCKET NO: 2003-1165-PST-E**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date(s) of Investigation(s) Relating to this Case:</b> January 28, 2003</p> <p><b>Date(s) of NOV(s)/NOE(s) Relating to this Case:</b> March 4, 2003 (NOE)</p> <p><b>Background Facts:</b> An EDRP was filed in this matter on December 9, 2004. An EDFARP was filed in this matter on December 9, 2005, to include revocation of delivery certificate language. On December 27, 2005, the respondent called and stated he wanted to settle this matter by paying the penalty; however, the Respondent indicated he needed to make payments over a three-year period. The staff attorney requested that the Respondent pay outstanding penalties for two prior Commission Default Orders. On or about January 20, 2006, the Financial Division received a payment of \$4,758.00, for the balance of Default Order Docket No. 2003-0997-PST-E.</p> <p>Staff lost contact with the Respondent while attempting to negotiate a settlement on this matter, and on or about August 21, 2006, the staff attorney sent Respondent a letter regarding the ED's intent to pursue a Shutdown and Default Order against the facility due to the types of violations alleged and Respondent's failure to file an Answer requesting a hearing. Shortly thereafter the Respondent called and stated he still wanted to settle the matter. On or about October 20, 2006, the Financial Division received a payment of \$1,264.00, for the balance of Default Order Docket No. 2002-0860-PST-E. A signed Agreed Order was received on or about December 10, 2006, and revised with non-substantive changes on March 21, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to install a method of corrosion protection for the UST systems [30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d)].</li> <li>Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs on or about January 28, 2003 [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</li> <li>Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the Respondent failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii), and TEX. WATER CODE § 26.3475(c)(1)].</li> <li>Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</li> </ol>	<p><b>Total Assessed:</b> \$35,100</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>Total Paid/Due to General Revenue:</b> \$1,850/\$33,250  The Respondent has paid \$1,850 of the administrative penalty. The remaining amount of \$33,250 shall be payable in 35 monthly payments of \$950 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Action(s) Taken</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> <li>Respondent has paid the balance of four thousand seven hundred fifty-eight dollars (\$4,758.00) of the administrative penalty assessed by Default Order Docket No. 2003-0997-PST-E;</li> <li>Respondent has paid the balance of one thousand two hundred sixty-four dollars (\$1,264.00) of the administrative penalty assessed by Default Order Docket No. 2002-0860-PST-E; and</li> <li>The Respondent has renewed its delivery certificate by submitting a properly completed UST registration and Self-Certification Form.</li> </ol> <p><b>Ordering Provision(s)</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately begin conducting effective manual or automatic inventory control procedures for all USTs.</li> <li>Within 30 days, <ol style="list-style-type: none"> <li>Install a corrosion protection method;</li> <li>Submit documentation that demonstrates current acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs;</li> <li>Install or implement a release detection method; and</li> <li>Appropriately mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST.</li> </ol> </li> </ol>

**RESPONDENT'S NAME: UPPAL BROS., INC. DBA SAVE WAY FOOD MART**  
**DOCKET NO: 2003-1165-PST-E**

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to ensure that a legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and Self-Certification Form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>6. Failed to timely renew the delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, the Respondent failed to renew the delivery certificate prior to the expiration date of August 31, 2002 [30 TEX. ADMIN. CODE 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), and TEX. WATER CODE § 26.346(c)(3)].</p> <p>7. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondent accepted fuel deliveries on January 17, 2003, and January 25, 2003 without a valid, current delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p>		<p>3. Within 45 days, submit written certification notarized by a State of Texas Notary Public and include detailed supporting documentation including photographs, receipts, and or other records to demonstrate compliance with these Ordering Provisions.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision March 02, 2005

<b>DATES</b>	Assigned	n/a				
	PCW	5-Apr-2006	Screening	1-Oct-2003	Priority Due	28-Feb-1900
			EPA Due			

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Uppal Bros., Inc. dba Save Way Food Mart
Reg. Ent. Ref. No.	RN102035367
Facility/Site Region	4-Dallas/Fort Worth <input type="checkbox"/>
Major/Minor Source	Minor Source <input type="checkbox"/>

<b>CASE INFORMATION</b>			
Enf./Case ID No.	9684	No. of Violations	7
Docket No.	2003-1165-PST-E	Order Type	Findings <input type="checkbox"/>
Case Priority	3 <input type="checkbox"/>	Enf. Coordinator	Judy Kluge
Media Program(s)	Petroleum Storage Tank <input type="checkbox"/>	EC's Team	Enforcement Team 7 <input type="checkbox"/>
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$22,500</b>
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### ADJUSTMENTS (% TO SUBTOTAL 1)

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

<b>Compliance History</b>	56% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$12,600</b>
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Notes: Respondent received one same or similar NOV, 3 unrelated NOVs, an Agreed Order Docket No. 2002-0860-PST-E effective April 5, 2004, and a Default Order Docket No. 2003-0997-PST-E effective August 28, 2004.

<b>Culpability</b>	No <input checked="" type="checkbox"/>	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: Respondent is not yet in compliance.

<b>Economic Benefit</b>	0% Enhancement	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$4,752	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$14,550	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$35,100</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

**Final Penalty Amount** **\$35,100**

<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	<b>\$35,100</b>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended because this is a findings order.

<b>PAYABLE PENALTY</b>	<b>\$35,100</b>
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<b>Screening Date</b> 01-Oct-2003	<b>Docket No.</b> 2003-1165-PST-E	<b>PCW</b>
<b>Respondent</b> Uppal Bros., Inc. dba Save Way Food Mart	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 9684	<i>PCW Revision March 02, 2005</i>	
<b>Reg. Ent. Reference No.</b> RN102035367		
<b>Additional ID No(s).</b> Petroleum Storage Tank Facility ID No. 44704		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Judy Kluge		

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were disclosed)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Other	<i>Please Enter Yes or No</i>		
	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 56%

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Respondent received one same or similar NOV, 3 unrelated NOVs, an Agreed Order Docket No. 2002-0860-PST-E effective April 5, 2004, and a Default Order Docket No. 2003-0997-PST-E effective August 28, 2004.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 56%

<b>Screening Date</b>	01-Oct-2003	<b>Docket No.</b>	2003-1165-PST-E	<b>PCW</b>
<b>Respondent</b>	Uppal Bros., Inc. dba Save Way Food Mart		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	9684	<i>PCW Revision March 02, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN102035367			
<b>Additional ID No(s)</b>	Petroleum Storage Tank Facility ID No. 44704			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Judy Kluge			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 334.49(a)			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 26.3475(d)			
<b>Violation Description</b>	Respondent failed to install a method of corrosion protection for the UST systems.			
<b>Base Penalty</b>				\$10,000

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

OR	<b>Harm</b>			<b>Percent</b>
	Major	Moderate	Minor	
	Actual			
Potential	X			25%

>> **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	<b>Percent</b>
	Failure to install a corrosion protection system could result in undetected releases that would expose human health and the environment to significant amounts of pollutants which would exceed levels that are protective of human and environmental receptors.				

**Adjustment** -\$7,500

**Base Penalty Subtotal** \$2,500

**Violation Events**

Number of Violation Events

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

**Violation Base Penalty** \$5,000

Two semiannual events are recommended from the inspection date of January 28, 2003 to the end of the 60 day settlement period of December 21, 2003 to make the penalty commensurate with the situation.

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

**Estimated EB Amount** \$1,225      **Violation Final Penalty Total** \$7,800

**This violation Final Assessed Penalty (adjusted for limits)** \$7,800

### Economic Benefit Worksheet

Respondent: Uppal Bros., Inc. dba Save Way Food Mart  
 Case ID No: 9684  
 Reg. Ent. Reference No: RN102035367  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 44704  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment	\$10,000	28-Jan-2003	28-Oct-2004	1.8	\$58	\$1,167	\$1,225
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: Approximate cost for the installation of a corrosion protection 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/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance:  TOTAL:

Screening Date	01-Oct-2003	Docket No.	2003-1165-PST-E	<b>PCW</b>
Respondent	Uppal Bros., Inc. dba Save Way Food Mart			Policy Revision 2 (September 2002)
Case ID No.	9684			PCW Revision March 02, 2005
Reg. Ent. Reference No.	RN102035367			
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 44704			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)			
Secondary Rule Cite(s)				
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		X			10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

mark only one use a 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 checked="" type="checkbox"/>

Violation Base Penalty \$5,000

Five single events are recommended for the five USTs as documented during the investigation conducted on January 28, 2003.

Economic Benefit (EB) for this violation      Statutory Limit Test

Estimated EB Amount	\$3,413	Violation Final Penalty Total	\$7,800
This violation Final Assessed Penalty (adjusted for limits)		\$7,800	



### Economic Benefit Worksheet

Respondent: Uppal Bros., Inc. dba Save Way Food Mart  
 Case ID No: 9684  
 Reg. Ent. Reference No: RN102035367  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 44704  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$3,250	28-Jan-2002	28-Jan-2003	1.0	\$163	\$3,250	\$3,413
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Estimated cost to provide financial assurance for five petroleum USTs for the 12-month period prior to the investigation date.							

Approx. Cost of Compliance

**TOTAL**

<b>Screening Date</b>	01-Oct-2003	<b>Docket No.</b>	2003-1165-PST-E	<b>PCW</b>
<b>Respondent</b>	Uppal Bros., Inc. dba Save Way Food Mart			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	9684			<i>PCW Revision March 02, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN102035367			
<b>Additional ID No(s)</b>	Petroleum Storage Tank Facility ID No. 44704			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Judy Kluge			
<b>Violation Number</b>	3			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code §§ 334.50(b)(1)(A) and 334.50(d)(1)(B)(ii)			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 26.3475(c)(1)			
<b>Violation Description</b>	Respondent failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, Respondent failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.			
	<b>Base Penalty</b>	\$10,000		

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text"/>
<b>Matrix Notes</b>	Failure to monitor USTs for releases could result in undetected releases that would expose human health and the environment to significant amounts of pollutants which would exceed levels that are protective of human and environmental receptors.				
	<b>Adjustment</b>	-\$7,500			

**Base Penalty Subtotal**

<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="2"/>		
mark only one use a small x	daily	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input checked="" type="checkbox"/>		<b>Violation Base Penalty</b> <input type="text" value="\$5,000"/>
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
	Two semiannual events are recommended from the inspection date of January 28, 2003 to the end of the 60 day settlement period of December 21, 2003 to make the penalty commensurate with the situation.			

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$13"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$7,800"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$7,800"/>	

### Economic Benefit Worksheet

Respondent: Uppal Bros., Inc. dba Save Way Food Mart  
 Case ID No: 9684  
 Reg. Ent. Reference No: RN102035367  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 44704  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$150	28-Jan-2003	28-Oct-2004	1.8	\$13	n/a	\$13

Notes for DELAYED costs: Approximate cost to monitor USTs for releases on a monthly basis.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date	01-Oct-2003	Docket No.	2003-1165-PST-E	PCW
Respondent	Uppal Bros., Inc. dba Save Way Food Mart			Policy Revision 2 (September 2002)
Case ID No.	9684			PCW Revision March 02, 2005
Reg. Ent. Reference No.	RN102035367			
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 44704			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			
Violation Number	4			
Primary Rule Cite(s)	30 Tex. Admin. Code §.334.48(c)			
Secondary Rule Cite(s)				
Violation Description	Respondent failed to conduct effective manual or automatic inventory control procedures for the UST systems.			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent

Matrix Notes: Failure to conduct proper inventory control measurements could result in undetected releases that would expose human health and the environment to significant amounts of pollutants which would exceed levels that are protective of human and environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$5,000

Two semiannual events are recommended from the inspection date of January 28, 2003 to the end of the 60 day settlement period of December 21, 2003 to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$88	Violation Final Penalty Total \$7,800
This violation Final Assessed Penalty (adjusted for limits) \$7,800	

### Economic Benefit Worksheet

Respondent: Uppal Bros., Inc. dba Save Way Food Mart  
 Case ID No. 9684  
 Reg. Ent. Reference No. RN102035367  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 44704  
 Media [Statute]: Petroleum Storage Tank  
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,000	28-Jan-2003	28-Oct-2004	1.8	\$88	n/a	\$88

Notes for DELAYED costs: Approximate cost for inventory control.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance  TOTAL

<b>Screening Date</b>	01-Oct-2003	<b>Docket No.</b>	2003-1165-PST-E	<b>PCW</b>
<b>Respondent</b>	Uppal Bros., Inc. dba Save Way Food Mart		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	9684	PCW Revision March 02, 2005		
<b>Reg. Ent. Reference No.</b>	RN102035367			
<b>Additional ID No(s)</b>	Petroleum Storage Tank Facility ID No. 44704			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Judy Kluge			
<b>Violation Number</b>	5			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(C)			
<b>Secondary Rule Cite(s)</b>				
<b>Violation Description</b>	Respondent failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.			
<b>Base Penalty</b>				\$10,000

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

OR	<b>Harm</b>				Percent
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential				

>> **Programmatic Matrix**

	<b>Falsification</b>	Major	Moderate	Minor	Percent
		X			
					10%

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment** -\$9,000

**Base Penalty Subtotal** \$1,000

**Violation Events**

**Number of Violation Events** 1

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

**Violation Base Penalty** \$1,000

One single event is recommended based on the investigation conducted on January 28, 2003.

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

**Estimated EB Amount** \$4

**Violation Final Penalty Total** \$1,560

**This violation Final Assessed Penalty (adjusted for limits)** \$1,560

### Economic Benefit Worksheet

Respondent: Uppal Bros., Inc. dba Save Way Food Mart  
 Case ID No: 9684  
 Reg. Ent. Reference No: RN102035367  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 44704  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 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
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**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)	\$50	28-Jan-2003	28-Oct-2004	1.8	\$4	n/a	\$4

Notes for DELAYED costs

Approximate cost to label the UST fill pipes.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

**TOTAL**

<b>Screening Date</b>	01-Oct-2003	<b>Docket No.</b>	2003-1165-PST-E	<b>PCW</b>
<b>Respondent</b>	Uppal Bros., Inc. dba Save Way Food Mart			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	9684			<i>PCW Revision March 02, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN102035367			
<b>Additional ID No(s)</b>	Petroleum Storage Tank Facility ID No. 44704			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Judy Kluge			
<b>Violation Number</b>	6			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (5)(B)(ii)			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 26.346(c)(3)			
<b>Violation Description</b>	Respondent failed to timely renew the delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, Respondent failed to renew the delivery certificate prior to the expiration date of August 31, 2002.			
	<b>Base Penalty</b>	\$10,000		

**Environmental Property and Human Health Matrix**

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

**Programmatic Matrix**

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

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

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

**Violation Base Penalty**

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

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**



### Economic Benefit Worksheet

Respondent: Uppal Bros., Inc. dba Save Way Food Mart  
 Case ID No: 9684  
 Reg. Ent. Reference No: RN102035367  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 44704  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 6

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
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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)	\$100	28-Jan-2003	28-Oct-2004	1.8	\$9	n/a	\$9
Notes for DELAYED costs	Approximate cost to renew a delivery certificate.						

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							

Approx. Cost of Compliance \$100

**TOTAL** \$9

<b>Screening Date</b>	01-Oct-2003	<b>Docket No.</b>	2003-1165-PST-E	<b>PCW</b>
<b>Respondent</b>	Uppal Bros., Inc. dba Save Way Food Mart			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	9684			<i>PCW Revision March 02, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN102035367			
<b>Additional ID No(s)</b>	Petroleum Storage Tank Facility ID No. 44704			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Judy Kluge			
<b>Violation Number</b>	7			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(A)(i)			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 26.3467(a)			
<b>Violation Description</b>	Respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, Respondent accepted fuel deliveries on January 17, 2003 and January 25, 2003 without a valid, current delivery certificate.			
<b>Base Penalty</b>	\$10,000			

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

OR	<b>Harm</b>				Percent
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual				
	Potential			X	5%

>> **Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	Percent

**Matrix Notes** Human health or the environment could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment:** -\$9,500

**Base Penalty Subtotal** \$500

>> **Violation Events**

**Number of Violation Events** 1

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

**Violation Base Penalty** \$500

One single event is recommended based on the investigation conducted on January 28, 2003.

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

**Estimated EB Amount** \$0

**Violation Final Penalty Total** \$780

**This violation Final Assessed Penalty (adjusted for limits)** \$780

### Economic Benefit Worksheet

Respondent: Uppal Bros., Inc. dba Save Way Food Mart  
 Case ID No: 9684  
 Reg. Ent. Reference No: RN102035367  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 44704  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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: Economic benefit included in Violation No. 6

Avoided Costs							
ANNUALIZE: [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$0

TOTAL \$0

## Compliance History

Customer/Respondent/Owner-Operator:	CN601107444 Uppal Brothers, Inc.	Classification: AVERAGE	Rating: 28.330
Regulated Entity:	RN102035367 SAVE WAY FOOD MART	Classification: AVERAGE	Site Rating: 28.33
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	44704
Location:	6620 BRENTWOOD STAIR RD, FORT WORTH, TX, 76112		Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 17, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 17, 2000 to March 17, 2005		

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

Name: Judy Kluge Phone: (817) 588-5825

### Site Compliance History Components

- |  |            |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes        |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No         |
| 3. If Yes, who is the current owner?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 8/28/04 ADMINORDER 2003-0997-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]  
30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to demonstrate acceptable financial assurance.

Effective Date: 4/5/04 ADMINORDER 2002-0860-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)(C)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to post clear and legible operating instructions and related information on gasoline pumps equipped with Stage II vapor recovery system.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to perform the annual pressure decay test.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(3)  
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to successfully perform 5 yr Full System functional testing to verify proper operation of the Stage II vapor recovery system.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter B 334.22(a)

Description: Failed to pay outstanding fees associated with FA Account No. 0055418U.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 03/04/2003 (23394)
- 2 05/05/2003 (146700)
- 3 02/19/2003 (20841)
- 4 12/05/2001 (IE0018243001001)
- 5 05/13/2003 (33646)
- 6 09/27/2002 (133880)
- 7 08/08/2000 (45491)
- 8 04/11/2003 (31577)

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

Date: 09/27/2002 (133880)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]

30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failed to demonstrate FA beginning 8/9/02.

Date: 01/28/2003 (20841)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: 30TAC 115.245(2) - failure to successfully perform verification tests (ex., A/L) within the preceding 12 months.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.222(3)

30 TAC Chapter 115, SubChapter C 115.242(4)

Description: 30TAC 115.242(4) - No gasoline leaks, as detected by sampling, sight, sound, or smell shall exist anywhere in the dispensing equipment or Stage II recovery system.

Date: 11/09/2000 (115050)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(I)

Description: FAILURE TO COMPLY

Date: 08/07/2000 (115050)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)[G]

Description: FAILURE TO COMPLY

F. Environmental audits.

N/A

Description:

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF  
AN ENFORCEMENT ACTION  
AGAINST UPPAL BROS., INC.  
DBA SAVE WAY FOOD MART;  
RN102035367

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2003-1165-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 Uppal Bros., Inc. dba Save Way Food Mart ("Uppal") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Uppal appear before the Commission and together stipulate that:

1. Uppal owns and operates a convenience store with retail sales of gasoline located at 6620 Brentwood Stair Road, Fort Worth, Tarrant County, Texas (the "Facility"). Uppal's five underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Uppal's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Uppal agree that the Commission has jurisdiction to enter this Agreed Order, and that Uppal is subject to the Commission's jurisdiction.
4. Uppal received notice of enforcement of the violations alleged in Section II ("Allegations") on or about March 9, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Uppal of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of thirty-five thousand one hundred dollars (\$35,100.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Uppal has paid one thousand eight hundred fifty dollars (\$1,850.00) of the administrative penalty. The remaining amount of thirty-three thousand two hundred fifty dollars (\$33,250.00) of the administrative penalty shall be payable in thirty-five monthly payments of nine hundred fifty dollars (\$950.00) each. The next monthly payment shall be made 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 until paid in full. If Uppal fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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 failure of Uppal to meet the payment schedule of this Agreed Order constitutes the failure of Uppal to timely and satisfactorily comply with all of the terms of this Agreed Order.
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 Uppal have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Uppal has implemented the following corrective measures at the Facility in response to this enforcement action:
  - a. Uppal has renewed its delivery certificate by submitting a properly completed UST registration and self-certification form.
10. 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 Uppal has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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

Uppal is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d) by failing to install a method of corrosion protection for the UST systems as documented during an inspection conducted on January 28, 2003, by a TCEQ Dallas/Fort Worth Regional Office investigator.
2. 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs on or about January 28, 2003, as documented during an inspection conducted on January 28, 2003, by a TCEQ Dallas/Fort Worth Regional Office investigator.
3. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii), and TEX. WATER CODE § 26.3475(c)(1) by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, Uppal failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, as documented during an inspection conducted on January 28, 2003, by a TCEQ Dallas/Fort Worth Regional Office investigator.
4. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST systems, as documented during an inspection conducted on January 28, 2003, by a TCEQ Dallas/Fort Worth Regional Office investigator.
5. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, as documented during an inspection conducted on January 28, 2003, by a TCEQ Dallas/Fort Worth Regional Office investigator.
6. 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), and TEX. WATER CODE § 26.346(c)(3) by failing to timely renew the delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate. Specifically, Uppal failed to renew the delivery certificate prior to the expiration date of August 31, 2002, as documented during an inspection conducted on January 28, 2003, by a TCEQ Dallas/Fort Worth Regional Office investigator.
7. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, Uppal accepted fuel deliveries on January 17, 2003, and January 25, 2003, without a valid, current delivery



certificate, as documented during an inspection conducted on January 28, 2003, by a TCEQ Dallas/Fort Worth Regional Office investigator.

### III. DENIALS

Uppal generally denies each allegation in Section II (“Allegations”).

### IV. ORDER

1. It is, therefore, ordered by the TCEQ that Uppal pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Uppal’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: Uppal Bros., Inc. dba Save Way Food Mart, Docket No. 2003-1165-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. Uppal shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Uppal shall begin conducting effective manual or automatic inventory control procedures for all USTs in accordance with 30 TEX. ADMIN. CODE § 334.48(c) (relating to Inventory Control).
  - b. Within 30 days after the effective date of this Agreed Order, Uppal shall:
    - i. Install a corrosion protection method in accordance with 30 TEX. ADMIN. CODE § 334.49(a) (relating to Corrosion Protection).
    - ii. Submit documentation that demonstrates current acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 TEX. ADMIN. CODE § 37.815(a) and (b).

- iii. Install or implement a release detection method in accordance with 30 TEX. ADMIN. CODE § 334.50 (relating to Release Detection).
  - iv. Appropriately mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST, in accordance with 30 TEX. ADMIN. CODE § 334.8 (relating to Certification for USTs and UST Systems).
- c. Within 45 days after the effective date of this Agreed Order, Uppal shall submit written certification as described below and include detailed supporting logs and other documents to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.iv.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The certification shall be submitted to:

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

with a copy to:

Sam Barrett, Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Uppal. Uppal 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 Uppal 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, Uppal's failure to comply is not a violation of this Agreed Order. Uppal shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Uppal shall notify the Executive Director within seven days after 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 Uppal shall be made in writing to the Executive Director. Extensions are not effective until Uppal 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 Uppal in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Uppal, or three days after the date on which the Commission mails notice of the Order to Uppal, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Uppal Bros., Inc. dba Save Way Food Mart  
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### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*[Handwritten Signature]*

For the Executive Director

3/28/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

*Rashpal Singh*  
Signature

03-28-07  
Date

RASHPAL SINGH  
Name (Printed or typed)  
Authorized representative of  
Uppal Bros., Inc. dba Save Way Food Mart

OWNER  
Title