EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1310-AIR-E **TCEQ ID:** RN100813682 **CASE NO.:** 30786

RESPONDENT NAME: Dolores M. Valdez and Ingilberto Rivera dba Rivas Super Store

ORDER TYPE:

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

CASE TYPE:

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

SITE WHERE VIOLATION(S) OCCURRED: Rivas Super Store, 5022 Dyer Street, El Paso, El Paso County

TYPE OF OPERATION: Gasoline dispensing station

SMALL BUSINESS: __X__ Yes ___ No

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

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Jessica Rhodes, Enforcement Division, Enforcement Section III, MC 149, (512) 239-2879; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Ms. Dolores M. Valdez and Mr. Ingilberto Rivera, Owners, Rivas Super Store, 5611 West Side Drive, El Paso, Texas 79932

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** June 1, 2006 **Date of NOE Relating to this Case:** July 31, 2006 (NOE) **Background Facts:** This was a routine investigation conducted by the El Paso City-County Health and Environmental District. One violation was documented. **AIR** Failed to comply with the maximum 7.0 pounds per square inch absolute ("psia") Reid Vapor Pressure ("RVP") requirement during the control period of June 1, 2006 through September 16, 2006. Specifically, a premium grade gasoline sample with a reading of 10.24 psia was taken from pump number four [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $1,240 **Total Deferred:** $248 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $112 (remaining $880 due in 8 monthly payments of $110 each) **Site Compliance History Classification:** __High _X_ Avg. __Poor **Person Compliance History Classification:** __High __Avg. __Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure the RVP for gasoline dispensed between June 1st and September 16th of each year shall not exceed 7.0 psia at the Station; and b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	31-Jul-2006				
PCW	15-Aug-2006	Screening	15-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Dolores M. Valdez and Ingilberto Rivera dba Rivas Super Store		
Reg. Ent. Ref. No.	RN100813682		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	30786	No. of Violations	1
Docket No.	2006-1310-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Jessica Rhodes
Multi-Media		EC's Team	Enforcement Team 5
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $1,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 24% Enhancement *Subtotals 2, 3, & 7* $240

Notes: Penalty enhancement due to one 1660-style Agreed Order and two NOVs for unrelated violations.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: Respondent does not meet culpability criteria.

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

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

Notes: Respondent does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$239
Approx. Cost of Compliance	$900

SUM OF SUBTOTALS 1-7 Final Subtotal $1,240

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

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

Notes:

Final Penalty Amount $1,240

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $1,240

DEFERRAL 20% Reduction Adjustment -$248

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $992

Screening Date	15-Aug-2006	**Docket No.** 2006-1310-AIR-E	**PCW**
Respondent	Dolores M. Valdez and Ingilberto Rivera dba Rivas Super Store		*Policy Revision 2 (September 2002)*
Case ID No.	30786		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN100813682		
Media [Statute]	Air Quality		
Enf. Coordinator	Jessica Rhodes		

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action *(number of NOVs meeting criteria)*	0	0%
	Other written NOVs	2	4%
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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) **24%**

>> Repeat Violator (Subtotal 3)

No

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

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

N/A

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

>> Compliance History Summary

Compliance History Notes Penalty enhancement due to one 1660-style Agreed Order and two NOVs for unrelated violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **24%**

PCW

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

Screening Date	15-Aug-2006
Docket No.	2006-1310-AIR-E
Respondent	Dolores M. Valdez and Ingilberto Rivera dba Rivas Super Store
Case ID No.	30786
Reg. Ent. Reference No.	RN100813682
Media [Statute]	Air Quality
Enf. Coordinator	Jessica Rhodes
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.252(2)
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)
Violation Description	Failure to comply with the maximum 7.0 pounds per square inch absolute (psia) Reid Vapor Pressure (RVP) requirement during the control period of June 1 - September 16, 2006. Specifically, a premium grade gasoline sample with a reading of 10.24 psia was taken from pump number four, as documented during an inspection conducted on June 1, 2006.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment was exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or the environment.

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.

Economic Benefit (EB) for this violation

Estimated EB Amount $239

Statutory Limit Test

Violation Final Penalty Total $1,240

This violation Final Assessed Penalty (adjusted for limits) $1,240

Economic Benefit Worksheet

Respondent: Dolores M. Valdez and Ingilberto Rivera dba Rivas Super Store
Case ID No.: 30786
Reg. Ent. Reference No.: RN100813682
Media [Statute]: Air Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$700	01-Jun-2006	01-Apr-2007	0.8	$29	n/a	$29
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 of implementing procedures to ensure the required RVP is maintained. Date required is the date of the investigation. Final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)	$200	01-Jun-2006	16-Sep-2006	1.0	$10	$200	$210
Notes for AVOIDED costs	Costs avoided by dispensing and utilizing gasoline having a RVP greater than 7.0 psia. The Date Required is the date of the investigation. The Final Date is the last day of the control period with RVP requirements.						

Approx. Cost of Compliance: $900

TOTAL: $239

Compliance History

Customer/Respondent/Owner-Operator: CN603069113 VALDEZ, DOLORES M. Classification: Rating:

Regulated Entity: RN100813682 RIVAS SUPER STORE Classification: AVERAGE Site Rating: 4.08

ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE0948Q
PETROLEUM STORAGE TANK REGISTRATION 45238
REGISTRATION

Location: 5022 DYER ST, EL PASO, TX, 79930 Rating Date: September 01 0

TCEQ Region: REGION 06 - EL PASO Repeat Violator: NO

Date Compliance History Prepared: August 23, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 23, 2001 to August 23, 2006

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

Name: Jessica Rhodes Phone: 512-239-2879

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? DOLORES M VALDEZ AND INGILBERTO RIVERA
4. if Yes, who was/were the prior owner(s)? WEST TEXAS G STORES INC
JAWZER INC
5. When did the change(s) in ownership occur? 11/10/2005
01/28/2004
07/01/2004

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: 11/26/2004 ADMINORDER 2003-0626-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to meet the minimum oxygen content requirement of 2.7% weight for gasoline supplied for use as motor fuel.

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 11/19/2002 (11240)
2 01/22/2003 (19936)
3 12/29/2005 (439555)
4 09/12/2001 (72952)
5 11/08/2001 (72953)
6 02/12/2002 (72954)
7 12/16/2002 (19266)
8 07/15/2005 (400033)
9 12/30/2003 (255016)

10 07/16/2004 (278526)

11 07/28/2006 (489239)

12 08/13/2002 (3517)

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

Date: 09/16/2002 (11240)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Failure to conduct daily inspections.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct monthly inspections.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.248(2)

Description: Failure to train new Entity Representative within three months after departure of previously representative.

Date: 07/14/2005 (400033)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]

Description: Facility failed to provide documentation of the three year corrosion protection test.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(d)(2)

Description: Facility failed to empty their four Underground Storage Tanks.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Facility failed to amend their registration information.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN603080094	RIVERA, INGILBERTO	Classification:	Rating:
Regulated Entity:	RN100813682	RIVAS SUPER STORE	Classification: AVERAGE	Site Rating: 4.08
ID Number(s):	AIR NEW SOURCE PERMITS PETROLEUM STORAGE TANK REGISTRATION		ACCOUNT NUMBER REGISTRATION	EE0948Q 45238

Location: 5022 DYER ST, EL PASO, TX, 79930 Rating Date: 9/1/2005 Repeat Violator: NO

TCEQ Region: REGION 06 - EL PASO

Date Compliance History Prepared: August 23, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 23, 2001 to August 23, 2006

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

Name: Jessica Rhodes Phone: 512-239-2879

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period?	Yes
2. Has there been a (known) change in ownership of the site during the compliance period?	Yes
3. If Yes, who is the current owner?	DOLORES M VALDEZ AND INGILBERTO RIVERA
4. if Yes, who was/were the prior owner(s)?	WEST TEXAS G STORES JAWZER INC
5. When did the change(s) in ownership occur?	11/10/2005 01/28/2004 07/01/2004

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: 11/26/2004 ADMINORDER 2003-0626-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter D 114.100(a)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to meet the minimum oxygen content requirement of 2.7% weight for gasoline supplied for use as motor fuel.

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 11/19/2002 (11240)
2 01/22/2003 (19936)
3 12/29/2005 (439555)
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Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Failure to conduct daily inspections.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Failure to conduct monthly inspections.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.248(2)

Description: Failure to train new Entity Representative within three months after departure of previously representative.

Date: 07/14/2005 (400033)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]

Description: Facility failed to provide documentation of the three year corrosion protection test.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(d)(2)

Description: Facility failed to empty their four Underground Storage Tanks.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Facility failed to amend their registration information.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
DOLORES M. VALDEZ AND	§	**TEXAS COMMISSION ON**
INGILBERTO RIVERA DBA	§	
RIVAS SUPER STORE	§	
RN100813682	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1310-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Dolores M. Valdez and Ingilberto Rivera dba Rivas Super Store ("Ms. Valdez and Mr. Rivera") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, Ms. Valdez and Mr. Rivera appear before the Commission and together stipulate that:

1. Ms. Valdez and Mr. Rivera own and operate a gasoline dispensing station at 5022 Dyer Street in El Paso, El Paso County, Texas (the "Station").

2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission, Ms. Valdez and Mr. Rivera agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Valdez and Mr. Rivera are subject to the Commission's jurisdiction.

4. Ms. Valdez and Mr. Rivera received notice of the violations alleged in Section II ("Allegations") on or about August 5, 2006.

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

6. An administrative penalty in the amount of One Thousand Two Hundred Forty Dollars ($1,240) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ms. Valdez and Mr. Rivera have paid One Hundred Twelve Dollars ($112) of the administrative penalty and Two Hundred Forty-Eight Dollars ($248) is deferred contingent upon Ms. Valdez and Mr.

Rivera'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. Valdez and Mr. Rivera fail to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Ms. Valdez and Mr. Rivera to pay all or part of the deferred penalty.

The remaining amount of Eight Hundred Eighty Dollars ($880) of the administrative penalty shall be payable in 8 monthly payments of One Hundred Ten Dollars ($110) each. The next 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 until paid in full. If Ms. Valdez and Mr. Rivera fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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 Ms. Valdez and Mr. Rivera to meet the payment schedule of this Agreed Order constitutes the failure by Ms. Valdez and Mr. Rivera to timely and satisfactorily comply with all 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, Ms. Valdez and Mr. Rivera 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. Valdez and Mr. Rivera have not complied with one or more of the terms or conditions in this Agreed Order.

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

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

II. ALLEGATIONS

As owners and operators of the Station, Ms. Valdez and Mr. Rivera are alleged to have failed to comply with the maximum 7.0 pounds per square inch absolute ("psia") Reid Vapor Pressure ("RVP") requirement during the control period of June 1, 2006 through September 16, 2006, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, a premium grade gasoline sample with a reading of 10.24 psia was taken from pump number four, as documented during an inspection conducted on June 1, 2006.

III. DENIALS

Ms. Valdez and Mr. Rivera generally deny each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ms. Valdez and Mr. Rivera pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Valdez and Mr. Rivera'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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Dolores M. Valdez and Ingilberto Rivera dba Rivas Super Store, Docket No. 2006-1310-AIR-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. Valdez and Mr. Rivera are jointly and severally liable for the violations documented in this Agreed Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Agreed Order.

3. It is further ordered that Ms. Valdez and Mr. Rivera shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, establish and implement a process which will ensure the RVP for gasoline dispensed between June 1st and September 16th of each year shall not exceed 7.0 psia at the Station;

   b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.

      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"; and

c. Submit the certification required by these Ordering Provisions 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:

Manager, Air Section
El Paso Regional Office
Texas Commission on Environmental Quality
401 E. Franklin Ave., Suite 560
El Paso, Texas 79901-1206

4. The provisions of this Agreed Order shall apply to and be binding upon Ms. Valdez and Mr. Rivera. Ms. Valdez and Mr. Rivera are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

5. If Ms. Valdez and Mr. Rivera fail 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. Valdez and Mr. Rivera's failure to comply is not a violation of this Agreed Order. Ms. Valdez and Mr. Rivera shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Valdez and Mr. Rivera shall notify the Executive Director within seven days after Ms. Valdez and Mr. Rivera become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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. Valdez and Mr. Rivera shall be made in writing to the Executive Director. Extensions are not effective until Ms. Valdez and Mr. Rivera receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Valdez and Mr. Rivera 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.

8. 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.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Ms. Valdez and Mr. Rivera, or three days after the date on which the Commission mails notice of the Order to Ms. Valdez and Mr. Rivera, 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

the Executive Director

Date 4/3/07 For

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

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

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

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

Signature

Date 10-14-06

DOLORES M VALDEZ
Name (Printed or typed)
Authorized Representative of
Dolores M. Valdez dba Rivas Super Store

OWNER
Title

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

3/19/07
Date

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

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

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

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

Ingilberto Rivera
Signature

10-14-06
Date

Ingilberto Rivera
Name (Printed or typed)
Authorized Representative of
Ingilberto Rivera dba Rivas Super Store

owner
Title

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