

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1697-PST-E **TCEQ ID:** RN101625143 **CASE NO.:** 31225
RESPONDENT NAME: Gessner Investments, LLC dba Chevron 108064

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: Chevron 108064, 9655 Westheimer Road, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: 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 March 12, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-5690; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Local Program Investigator: Ms. Lajuan Julun, Investigator, University of Texas at Arlington, 1851 Crosspoint, Suite 1270, Houston, Texas 77057-3709

Respondent: Mr. Amir Zindani, President/Registered Agent, Gessner Investments, LLC dba Chevron 108064, 7106 Tessa Lakes Court, Sugarland, Texas 77479

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

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 of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 21, 2006</p> <p>Date of NOE Relating to this Case: July 28, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation. Five violations were documented.</p> <p>WASTE</p> <p>1) Failed to conduct effective manual or automatic inventory control procedures for the underground storage tank ("UST") system at the Facility [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>2) Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failed to perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallon per hour from the UST system [30 TEX. ADMIN. CODE § 334.50(d)(4)(A)(ii)(II) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4) Failed to provide release detection for the piping associated with the UST system. Specifically, Gessner did not conduct monthly monitoring or an annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>5) Failed to test the line leak detector at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p>	<p>Total Assessed: 16,000</p> <p>Total Deferred: \$3,200 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$1,250 (remaining \$11,550 due in 11 monthly payments of \$1,050 each)</p> <p>Site Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Gessner has implemented the following corrective measures at the Facility:</p> <p>a. Submitted documentation to the University of Texas at Arlington Continuing Education Division, verifying that the Facility began conducting inventory control procedures on August 1, 2006; and</p> <p>b. Submitted documentation to the University of Texas at Arlington Continuing Education Division, verifying that the Facility conducted a passing annual tightness test, successfully tested the line leak detectors, and implemented a release detection system on August 19, 2006.</p>



Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Penalty Calculation Worksheet (PCW)

DATES	Assigned	31-Jul-2006	Screening	15-Sep-2006	EPA Due	
	PCW	08-Nov-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Gessner Investments, LLC dba Chevron 108064
Reg. Ent. Ref. No.	RN101625143
Facility/Site Region	12-Houston
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	31225	No. of Violations	2
Docket No.	2006-1697-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$20,000
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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.

Compliance History	-10% Enhancement	Subtotals 2, 3, & 7	-\$2,000
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Notes: Reduction due to high performer classification.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	10% Reduction	Subtotal 5	-\$2,000
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with a small x)

Notes: The respondent came into compliance on August 19, 2006.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$15	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,950	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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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	\$16,000
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STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$16,000
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DEFERRAL	20% Reduction	Adjustment	-\$3,200
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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	\$12,800
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Respondent Gessner Investments, LLC dba Chevron 108064 Policy Revision 2 (September 2002)

Case ID No. 31225 PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101625143

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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%

Please Enter Yes or No

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date

2006-1697-pst-e-qcp-Gessner Investments, LLC dba Chevron 108064.wb3
15-Sep-2006

Docket No. 2006-1697-PST-E

PCW

Respondent Gessner Investments, LLC dba Chevron 108064

Policy Revision 2 (September 2002)

Case ID No. 31225

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101625143

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code § 334.48(c)

Secondary Rule Cite(s)

Violation Description

Failure to conduct effective manual or automatic inventory control procedures for the UST system at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm				
Release		Major	Moderate	Minor		
OR	Actual				Percent	50%
	Potential	X				

>> Programmatic Matrix

		Major	Moderate	Minor		
Falsification					Percent	

Matrix Notes

Human health or the environment could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events 2

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

Violation Base Penalty \$10,000

Two monthly events are recommended from the June 21, 2006 investigation date to the August 1, 2006 date of compliance.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$8,000

This violation Final Assessed Penalty (adjusted for limits) \$8,000

Economic Benefit Worksheet

Respondent: Gessner Investments, LLC dba Chevron 108064
 Case ID No. 31225
 Reg. Ent. Reference No. RN101625143
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

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)	\$500	21-Jun-2006	01-Aug-2006	0.1	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. Date required is the investigation date and the final date is the date the respondent came into 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)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Respondent Gessner Investments, LLC dba Chevron 108064
Case ID No. 31225

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

Reg. Ent. Reference No. RN101625143
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), 334.50(b)(2), 334.50(b)(2)(A)(i)(III), and 334.50(d)(4)(A)(ii)(II)
Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description
 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 perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallon per hour from the UST system. Failed to provide release detection for the piping associated with the UST system. Specifically, the respondent did not conduct monthly monitoring or an annual piping tightness test. Failed to test the line leak detectors at least once per year for performance and operational reliability.

Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent <input type="text" value="50%"/>
	Potential	X			

>> **Programmatic Matrix**

		Major	Moderate	Minor	
Falsification					Percent <input type="text"/>
Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors.					

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events

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

Violation Base Penalty \$10,000

Two monthly events are recommended from the June 21, 2006 investigation date to the August 19, 2006 date of compliance.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$8,000

This violation Final Assessed Penalty (adjusted for limits) \$8,000

Economic Benefit Worksheet

Respondent: Gessner Investments, LLC dba Chevron 108064
 Case ID No. 31225
 Reg. Ent. Reference No. RN101625143
 Media [Statute]: Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$250	21-Jun-2006	19-Aug-2006	0.2	\$0	\$3	\$3
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)	\$1,200	21-Jun-2006	19-Aug-2006	0.2	\$10	n/a	\$10

Notes for DELAYED costs: Estimated cost to provide release detection for the UST system and test line leak detector. Date required is the investigation date and the final date is the date the respondent came into 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)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$1,450**

TOTAL \$13

Compliance History

Customer/Respondent/Owner-Operator: CN602931073 Gessner Investments, LLC Classification: High Rating: 0.0
Regulated Entity: RN101625143 CHEVRON 108064 Classification: High Site Rating: 0.0

ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG6350N
PETROLEUM STORAGE TANK REGISTRATION 29213
REGISTRATION

Location: 9655 WESTHEIMER RD, HOUSTON, TX, 77063 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 01, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 01, 2001 to August 01, 2006

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

Name: Thomas Greimel Phone: (512) 239-5690

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? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - 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 07/28/2006 (484868)
2 01/21/2004 (260029)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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

QUESTIONNAIRE

1. Name of the respondent: _____

2. Designation: _____

3. Name of the organization: _____

4. Address: _____

5. Telephone: _____

6. E-mail: _____

7. Date of completion: _____

8. Name of the interviewer: _____

9. Signature: _____

SECTION I: GENERAL INFORMATION

10. How long have you been working for the organization? _____

11. What is your highest educational qualification? _____

12. How do you rate your overall job satisfaction? _____

13. How do you rate your work-life balance? _____

14. How do you rate your organizational commitment? _____

15. How do you rate your job security? _____

16. How do you rate your salary and benefits? _____

17. _____

18. How do you rate your supervisor's performance? _____

19. _____

20. How do you rate your colleagues' performance? _____

21. _____

22. How do you rate your organization's performance? _____

23. How do you rate your organization's culture? _____

24. How do you rate your organization's policies? _____

25. How do you rate your organization's communication? _____

26. _____

27. How do you rate your organization's training and development? _____

28. _____

29. How do you rate your organization's innovation? _____

30. _____

31. How do you rate your organization's social responsibility? _____

32. _____

33. How do you rate your organization's environmental impact? _____

34. _____

35. How do you rate your organization's diversity and inclusion? _____

36. _____

37. How do you rate your organization's ethical practices? _____

38. _____

39. _____

40. _____

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GESSNER INVESTMENTS, LLC DBA
CHEVRON 108064
RN101625143**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2006-1697-PST-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 Gessner Investments, LLC dba Chevron 108064 ("Gessner") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Gessner appear before the Commission and together stipulate that:

1. Gessner owns and operates a convenience store with retail sales of gasoline at 9655 Westheimer Road in Houston, Harris County, Texas (the "Facility").
2. Gessner's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and Gessner agree that the Commission has jurisdiction to enter this Agreed Order, and that Gessner is subject to the Commission's jurisdiction.
4. Gessner received notice of the violations alleged in Section II ("Allegations") on or about August 2, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Gessner of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixteen Thousand Dollars (\$16,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Gessner has paid One Thousand Two Hundred Fifty Dollars (\$1,250) of the administrative penalty and Three Thousand Two Hundred Dollars (\$3,200) is deferred contingent upon Gessner'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 Gessner fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Gessner to pay all or part of the deferred penalty.

The remaining amount of Eleven Thousand Five Hundred Fifty Dollars (\$11,550) of the administrative penalty shall be payable in 11 monthly payments of One Thousand Fifty Dollars (\$1,050) 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 Gessner fails 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 Gessner to meet the payment schedule of this Agreed Order constitutes the failure by Gessner 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 and Gessner 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 Gessner has implemented the following corrective measures at the Facility:
 - a. Submitted documentation to the University of Texas at Arlington Continuing Education Division, verifying that the Facility began conducting inventory control procedures on August 1, 2006; and
 - b. Submitted documentation to the University of Texas at Arlington Continuing Education Division, verifying that the Facility conducted a passing annual tightness test, successfully tested the line leak detectors, and implemented a release detection system on August 19, 2006.
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 Gessner 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.

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II. ALLEGATIONS

As owner and operator of the Facility, Gessner is alleged to have:

1. Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on June 21, 2006.
2. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on June 21, 2006.
3. Failed to perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallon per hour from the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(4)(A)(ii)(II) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on June 21, 2006.
4. Failed to provide release detection for the piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on June 21, 2006. Specifically, Gessner did not conduct monthly monitoring or an annual piping tightness test.
5. Failed to test the line leak detector at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on June 21, 2006.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Gessner pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Gessner'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: Gessner Investments, LLC dba Chevron 108064, Docket No. 2006-1697-PST-E" to:

1948

1948-1949

1949-1950

1950-1951

1951-1952

1952-1953

1953-1954

1955

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1957-1958

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. The provisions of this Agreed Order shall apply to and be binding upon Gessner. Gessner 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against Gessner 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.
4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Gessner, or three days after the date on which the Commission mails notice of the Order to Gessner, 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



For the Executive Director

4/12/07

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.



Signature

12/1/06

Date

Amir Zingani

Name (Printed or typed)
Authorized Representative of
Gessner Investments, LLC dba Chevron 108064

President

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.

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