

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NUMBER: 2006-0299-PST-E TCEQ ID NO: RN102043023 ENF ID: 28850**  
**RESPONDENT NAME: AGA ENTERPRISES, INC. DBA CHEVRON FOOD MART 2**

**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:** 6892 Farm-to-Market Road 1130, Orange, Orange County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:**  Yes  No

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

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

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

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Kari Gilbreth, Litigation Division, MC 175, (512) 239-1320, Ms. Jennifer Cook, Litigation Division, MC 175 (512) 239-1873  
**TCEQ Enforcement Coordinator:** Ms. Judy Kluge, Enforcement Division, Section IV, MC R-4, (817) 588-5825  
**TCEQ Regional Contact:** Ms. Susan Kelly, Beaumont Regional Office, MC R-10, (409) 898-3838  
**Respondent:** Mr. Inayat Khoja, President, AGA Enterprises, Inc. dba Chevron Food Mart 2, P.O. Box 1919 Winnie, Texas 77665  
**Respondent's Attorney:** Not represented by counsel.

CHIEF CLERKS OFFICE  
 2017 APR 17 PM 4:23  
 TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

RESPONDENT'S NAME: AGA ENTERPRISES, INC. DBA CHEVRON FOOD MART 2  
 DOCKET NO.: 2006-0299-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 8, 2006</p> <p>Date of NOE Relating to this Case: March 14, 2006</p> <p>Background Facts: The EDP RP was filed on September 19, 2006. The Respondent signed the Agreed Order on December 20, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <ol style="list-style-type: none"> <li>Failed to install overfill prevention equipment on the UST system [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].</li> <li>Failed to monitor UST system for releases at a frequency 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)].</li> <li>Failed to conduct reconciliation of detailed inventory control records at least once a 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(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</li> </ol>	<p>Initial Calculated Penalty: \$ 2,625</p> <p>Total Deferred: \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Paid/Due to General Revenue: \$125/\$2,500                      The Respondent has paid \$125 of the administrative penalty. The remaining amount of \$2,500 shall be payable in 25 monthly payments of \$100 each.</p> <p>Site Compliance History Classification:  <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification:  <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:                      The Executive Director recognizes that AGA has implemented the following corrective measures:</p> <ol style="list-style-type: none"> <li>Submitted documentation to the TCEQ verifying that the Facility had installed a ball float on the regular fill port on February 22, 2006; and</li> <li>Submitted documentation to the TCEQ verifying that the Facility began conducting monthly reconciliation of inventory control records and implemented a release detection method on February 24, 2006.</li> </ol>



# Penalty Calculation Worksheet (PCW)

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

DATES Assigned	20-Mar-2006				
PCW	21-Jun-2006	Screening	24-Mar-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	AGA Enterprises, Inc. dba Chevron Food Mart 2
Reg. Ent. Ref. No.	RN102043023
Facility/Site Region	10-Beaumont <input type="checkbox"/> Major/Minor Source <input checked="" type="checkbox"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	28850	No. of Violations	2
Docket No.	2006-0299-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank <input checked="" type="checkbox"/>	Enf. Coordinator	Judy Kluge
Multi-Media		EC's Team	Enforcement Team 7 <input checked="" type="checkbox"/>
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>\$3,500</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.

Compliance History	0% Enhancement	<b>Subtotal 2, 3, &amp; 7</b>	<b>\$0</b>
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Notes: No enhancement due to compliance history.

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

Good Faith Effort to Comply	25% Reduction	<b>Subtotal 5</b>	<b>-\$875</b>
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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 February 24, 2006.

Economic Benefit	0% Enhancement	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$4	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,500	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$2,625</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:

<b>Final Penalty Amount</b>	<b>\$2,625</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$2,625</b>
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<b>DEFERRAL</b>	<b>Reduction</b>	<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 offered for non-expedited case.

<b>PAYABLE PENALTY</b>	<b>\$2,625</b>
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**Screening Date** 24-Mar-2006 **Docket No.** 2006-0299-PST-E **PCW**  
**Respondent** AGA Enterprises, Inc. dba Chevron Food Mart 2 *Policy Revision 2 (September 2002)*  
**Case ID No.** 28850 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN102043023  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** 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 ( <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%
<i>Please Enter Yes or No</i>			
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)** 0%

>> **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**

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b>	24-Mar-2006	<b>Docket No.</b>	2006-0299-PST-E	<b>PCW</b>
<b>Respondent</b>	AGA Enterprises, Inc. dba Chevron Food Mart 2		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	28850	PCW Revision May 19, 2005		
<b>Reg. Ent. Reference No.</b>	RN102043023			
<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 § 334.51(b)(2)(C)			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 26.3475(c)(2)			
<b>Violation Description</b>	Failure to install overfill prevention equipment for the UST system. Specifically, there was no ball float installed on the regular fill port, as documented during the February 8, 2006 investigation.			
<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		X		10%

>> **Programmatic Matrix**

Matrix Notes	<b>Falsification</b>	Major	Moderate	Minor	Percent
Failure to install overfill prevention equipment could expose human health or the environment to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.					

**Adjustment** - \$9,000

**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 checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

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

One quarterly event is recommended based on the violation documented during the February 8, 2006 investigation to the February 22, 2006 compliance date.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$750"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$750"/>	

### Economic Benefit Worksheet

Respondent: AGA Enterprises, Inc. dba Chevron Food Mart 2  
 Case ID No: 28850  
 Reg. Ent. Reference No: RN102043023  
 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	\$500	08-Feb-2006	22-Feb-2006	0.0	\$0	\$1	\$1
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: Estimated cost to install overfill protection equipment. Date Required is the date of the investigation. Final Date is the 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)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: n/a

Approx. Cost of Compliance \$500

**TOTAL** \$1

<b>Screening Date</b> 24-Mar-2006	<b>Docket No.</b> 2006-0299-PST-E	<b>PCW</b>
<b>Respondent</b> AGA Enterprises, Inc. dba Chevron Food Mart 2	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 28850	<i>PCW Revision May 19, 2005</i>	
<b>Reg. Ent. Reference No.</b> RN102043023		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Judy Kluge		
<b>Violation Number</b> 2		
<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>	Failure to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, the respondent failed to conduct reconciliation of detailed inventory control records at least once a 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

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

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential	X			Percent <input type="text" value="25%"/>

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification				Percent <input type="text"/>

**Matrix Notes**  
 Failing to monitor the UST system for releases could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** -\$7,500

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

**Violation Events**

Number of Violation Events

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

**Violation Base Penalty**

One monthly event is recommended based on the violation documented during the February 8, 2006 investigation to the February 24, 2006 compliance date.

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

<b>Estimated EB Amount</b> <input type="text" value="\$3"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$1,875"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,875"/>	

### Economic Benefit Worksheet

Respondent: AGA Enterprises, Inc. dba Chevron Food Mart 2  
 Case ID No: 28850  
 Reg. Ent. Reference No: RN102043023  
 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)	\$1,000	08-Feb-2006	24-Feb-2006	0.0	\$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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to monitor USTs for releases. Date Required is the date of investigation. Final Date is the 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)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: n/a

Approx. Cost of Compliance \$1,000

**TOTAL** \$3

## Compliance History

Customer/Respondent/Owner-Operator:	CN601109077    AGA Enterprises, Inc.	Classification: AVERAGE	Rating: 1.32
Regulated Entity:	RN102043023    CHEVRON FOOD MART 2	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	54157
Location:	6892 FM 1130, ORANGE, TX, 77632	Rating Date: September 01 05	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	March 21, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 21, 2001 to March 21, 2006		

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

Name: Christina J. Martinez Phone: 512-239-0739

### 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.  
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 03/14/2006 (453582)
- 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
AGA ENTERPRISES, INC. DBA  
CHEVRON FOOD MART 2;  
RN102043023**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2006-0299-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 AGA Enterprises, Inc. dba Chevron Food Mart 2 ("AGA") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and AGA, appear before the Commission and together stipulate that:

1. AGA owns and operates a convenience store with retail sales of gasoline located at 6892 Farm-to-Market Road 1130, Orange, Orange County, Texas (the "Facility").
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 AGA agree that the Commission has jurisdiction to enter this Agreed Order, and that AGA is subject to the Commission's jurisdiction.
4. AGA received notice of the violations alleged in Section II ("Allegations") on or about March 19, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by AGA of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand six hundred twenty-five dollars (\$2,625.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). AGA has paid one hundred twenty-five dollars (\$125.00) of the

administrative penalty. The remaining amount of two thousand five hundred dollars (\$2,500.00) of the administrative penalty shall be payable in twenty-five monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If AGA 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 AGA to meet the payment schedule of this Agreed Order constitutes the failure of AGA 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 AGA 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 AGA has implemented the following corrective measures at the Facility in response to this enforcement action:
  - a. Submitted documentation to the TCEQ verifying that the Facility had installed a ball float on the regular fill port on February 22, 2006; and
  - b. Submitted documentation to the TCEQ verifying that the Facility began conducting monthly reconciliation of inventory control records and implemented a release detection method on February 24, 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 AGA 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

AGA, as owner and operator of the Facility, is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2) by failing to install overfill prevention equipment on the UST system. Specifically, there was no ball float installed on the regular fill port.
2. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) 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).
3. 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1) by failing to conduct reconciliation of detailed inventory control records at least once a 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.

## III. DENIALS

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

## IV. ORDER

1. It is, therefore, ordered by the TCEQ that AGA pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and AGA'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 or 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: AGA Enterprises, Inc. dba Chevron Food Mart 2; Docket No. 2006-0299-PST-E"; Enforcement ID No. 28850 to:

Financial Administration Division, Revenues  
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 AGA. AGA 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 AGA 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 the TEX. WATER CODE or the TEX. HEALTH & SAFETY CODE.
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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to AGA, or three days after the date on which the Commission mails notice of the Order to AGA, 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

2/19/07

\_\_\_\_\_  
Date

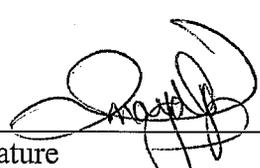
I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, 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.

\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
INAYAT. KHATWA

Name (Printed or typed)  
Authorized representative of  
AGA Enterprises, Inc. dba  
Chevron Food Mart 2

12/20/06  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
Title