EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0543-PST-E **TCEQ ID:** RN101543270 **CASE NO.:** 35665

RESPONDENT NAME: Brijinder Mohan dba S S Mart

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: S S Mart, 1431 South Austin Avenue, Denison, Grayson County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: __X__ **Yes** ____ **No**

OTHER SIGNIFICANT MATTERS: A complaint was received February 21, 2008, alleging that the Facility has an expired delivery certificate and continues to operate. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on October 20, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Brijinder Mohan, Proprietor, S S Mart, 1431 South Austin Avenue, Denison, Texas 75020

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: X Complaint __ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** February 21, 2008 **Date of Investigation Relating to this Case:** March 4, 2008 **Date of NOV/NOE Relating to this Case:** March 24, 2008 (NOE) **Background Facts:** This was a complaint investigation. **WASTE** 1) Failure to provide an amended underground storage tank ("UST") registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to reflect the current ownership change [30 TEX. ADMIN. CODE § 334.7(d)(3)]. 2) Failure to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on January 31, 2008 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5(B)(ii)]. 3) Failure to make available to a common carrier a valid, current delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondent received one delivery of fuel without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)]. 4) Failure to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].	**Total Assessed:** $8,670 **Total Deferred:** $1,734 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $578 (remaining $6,358 due in 11 monthly payments of $578 each) **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** __ **Average** __ **Poor** **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order: i. Cease accepting fuel until such time as a valid certificate is obtained from the TCEQ; ii. Begin maintaining all UST records; and iii. Begin conducting effective manual or automatic inventory control procedures for all USTs. b. Within 30 days after the effective date of this Ageeed Order: i. Equip all fill pipes in the UST system with drop tubes including any connected fittings; and ii. Replace the gauge stick used to measure fuel level, begin recording inventory volume measurements for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, and begin conducting monthly reconciliation of the inventory control records. c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through b.ii.

5) Failure to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day [30 TEX. ADMIN. CODE § 334.48(c)]. 6) Failure to equip all fill pipes (including any connected fittings) in a new UST system with a removable or permanent factory-constructed drop tube which shall extend to within 12 inches of the tank bottom. Specifically, there were no drop tubes installed as required in the fill pipes for the UST system [30 TEX. ADMIN. CODE § 334.45(e)(2)(D)]. 7) Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent 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)]. 8) Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)]. 9) Failure to have an accurate means of measuring the level of stored substance over the full range of the tank's height to the nearest one-eighth of an inch. Specifically, the fuel stick being used for measuring the stored substance was missing the bottom tip, therefore was not capable of measuring the level of stored substance accurately [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(II) and TEX. WATER CODE § 26.3475(c)(1)].		

Additional ID No(s).: PST No. 18046

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision February 29, 2008*

TCEQ

DATES					
Assigned	31-Mar-2008				
PCW	3-Apr-2008	Screening	2-Apr-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Brijinder Mohan dba S S Mart		
Reg. Ent. Ref. No.	RN101543270		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35665	No. of Violations	6
Docket No.	2008-0543-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* — **$8,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 2% Enhancement — *Subtotals 2, 3, & 7* — **$170**

Notes: Enhancement for one prior NOV with dissimilar violations.

Culpability — No — 0% Enhancement — *Subtotal 4* — **$0**

Notes: The Respondent does not meet the 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 x)

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* — **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$118
Approx. Cost of Compliance	$3,100

SUM OF SUBTOTALS 1-7 — *Final Subtotal* — **$8,670**

OTHER FACTORS AS JUSTICE MAY REQUIRE — 0% — *Adjustment* — **$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount — **$8,670**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* — **$8,670**

DEFERRAL — 20% Reduction — *Adjustment* — **-$1,734**

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 — **$6,936**

Screening Date 2-Apr-2008 **Docket No.** 2008-0543-PST-E **PCW**

Respondent Brijinder Mohan dba S S Mart

Policy Revision 2 (September 2002)

Case ID No. 35665

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101543270

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*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 submitted)*	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) 2%

>> 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

Enhancement for one prior NOV with dissimilar violations.

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

Screening Date 2-Apr-2008 **Docket No.** 2008-0543-PST-E **PCW**

Respondent Brijinder Mohan dba S S Mart *Policy Revision 2 (September 2002)*

Case ID No. 35665 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN101543270

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(A)(vii) and (c)(5(B)(ii)

Violation Description Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to reflect the current ownership change. Also, failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired January 31, 2008.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 64 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended based on documentation of the violation during the March 4, 2008 investigation.

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

Estimated EB Amount $4 **Violation Final Penalty Total** $1,020

This violation Final Assessed Penalty (adjusted for limits) $1,020

Economic Benefit Worksheet

Respondent Brijinder Mohan dba S S Mart
Case ID No. 35665
Reg. Ent. Reference No. RN101543270
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$100	1-Jan-2008	30-Sep-2008	0.7	$4	n/a	$4
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The delayed cost includes the estimated amount required to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days before the expiration date and the final date is the expected 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:

Approx. Cost of Compliance $100

TOTAL $4

Screening Date 2-Apr-2008 **Docket No.** 2008-0543-PST-E **PCW**

Respondent Brijinder Mohan dba S S Mart

Policy Revision 2 (September 2002)

Case ID No. 35665

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101543270

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondent received one delivery of fuel without a delivery certificate.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,500

$500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $500

One single event is recommended for acceptance of one delivery of fuel.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $510

This violation Final Assessed Penalty (adjusted for limits) $510

Economic Benefit Worksheet

Respondent Brijinder Mohan dba S S Mart
Case ID No. 35665
Reg. Ent. Reference No. RN101543270
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Economic benefit is included in Violation No. 1.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $0

TOTAL: $0

Screening Date 2-Apr-2008 **Docket No.** 2008-0543-PST-E **PCW**

Respondent Brijinder Mohan dba S S Mart *Policy Revision 2 (September 2002)*

Case ID No. 35665 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN101543270

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Violation Description Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 29 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended based on documentation of the violation during the March 4, 2008 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $16

Statutory Limit Test

Violation Final Penalty Total $1,020

This violation Final Assessed Penalty (adjusted for limits) $1,020

Economic Benefit Worksheet

Respondent Brijinder Mohan dba S S Mart
Case ID No. 35665
Reg. Ent. Reference No. RN101543270
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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	$500	4-Mar-2008	30-Oct-2008	0.7	$16	n/a	$16
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 maintain all UST records. The date required is the investigation date and the final date is the expected 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							

Approx. Cost of Compliance $500

TOTAL $16

Screening Date 2-Apr-2008 **Docket No.** 2008-0543-PST-E **PCW**

Respondent Brijinder Mohan dba S S Mart *Policy Revision 2 (September 2002)*

Case ID No. 35665 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN101543270

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)

Violation Description Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 — 29 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended based on documentation of the violation during the March 4, 2008 investigation to the April 2, 2008 screening date.

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

Estimated EB Amount $16 **Violation Final Penalty Total** $2,550

This violation Final Assessed Penalty (adjusted for limits) $2,550

Economic Benefit Worksheet

Respondent Brijinder Mohan dba S S Mart
Case ID No. 35665
Reg. Ent. Reference No. RN101543270
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Inventory Control	$500	4-Mar-2008	30-Oct-2008	0.7	$16	n/a	$16

Notes for DELAYED costs: Estimated cost to conduct inventory control for all USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation and final date is the expected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 $500

TOTAL $16

Screening Date 2-Apr-2008 **Docket No.** 2008-0543-PST-E **PCW**

Respondent Brijinder Mohan dba S S Mart *Policy Revision 2 (September 2002)*

Case ID No. 35665 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN101543270

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.45(e)(2)(D)

Violation Description Failed to equip all fill pipes (including any connected fittings) in a new UST system with a removable or permanent factory-constructed drop tube which shall extend to within 12 inches of the tank bottom. Specifically, there were no drop tubes installed as required in the fill pipes for the UST system.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed 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

$1,000

Violation Events

Number of Violation Events 1 | 29 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended based on documentation of the violation during the March 4, 2008 investigation to the April 2, 2008 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $26

Statutory Limit Test

Violation Final Penalty Total $1,020

This violation Final Assessed Penalty (adjusted for limits) $1,020

Economic Benefit Worksheet

Respondent Brijinder Mohan dba S S Mart
Case ID No. 35665
Reg. Ent. Reference No. RN101543270
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$500	4-Mar-2008	30-Nov-2008	0.7	$1	$25	$26
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 drop tubes in the fill pipes for the UST system. The date required is the investigation date and the final date is the expected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 $500

TOTAL $26

Screening Date 2-Apr-2008 **Docket No.** 2008-0543-PST-E **PCW**

Respondent Brijinder Mohan dba S S Mart *Policy Revision 2 (September 2002)*

Case ID No. 35665 *PCW Revision February 29, 2008*

Reg. Ent. Reference No. RN101543270

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 334.50(d)(1)(B)(ii), (d)(1)(B)(iii)(I), and (d)(1)(B)(iii)(II) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day. Also, failed to have an accurate means of measuring the level of stored substance over the full range of the tank's height to the nearest one-eighth of an inch. Specifically, the fuel stick being used for measuring the stored substance was missing the bottom tip, therefore was not capable of measuring the level of stored substance accurately.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 — 29 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended based on documentation of the violation during the March 4, 2008 investigation to the April 2, 2008 screening date.

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

Estimated EB Amount $56 **Violation Final Penalty Total** $2,550

This violation Final Assessed Penalty (adjusted for limits) $2,550

Economic Benefit Worksheet

Respondent Brijinder Mohan dba S S Mart
Case ID No. 35665
Reg. Ent. Reference No. RN101543270
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	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
Monitoring	$1,500	4-Mar-2008	30-Nov-2008	0.7	$56	n/a	$56

Notes for DELAYED costs: The estimated cost of monitoring all USTs for releases, to include recording daily inventory volume measurements, and monthly reconciliation of inventory control records. The date required is the investigation date and the final date is date expected 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:

Approx. Cost of Compliance $1,500

TOTAL $56

Compliance History

Customer/Respondent/Owner-Operator:	CN603334681	MOHAN, BRIJINDER	Classification: N/A	Rating: N/A
Regulated Entity:	RN101543270	S S MART	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	18046	
Location:	1431 S AUSTIN AVE, DENISON, TX, 75020	Repeat Violator: No	Rating Year: 2007	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 02, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 02, 2003 to April 02, 2008			

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

Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Brijinder Mohan
4. If Yes, who was/were the prior owner(s)? Lucky Stop 10
5. When did the change(s) in ownership occur? December 1, 2007

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 02/26/2007 (541553)

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

Date: 12/28/2006 (532951)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter H 114.301(a)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to comply with Reid vapor pressure limits from 06/01/06 through 10/01/06.

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	§	**TEXAS COMMISSION ON**
BRIJINDER MOHAN DBA S S MART	§	
RN101543270	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0543-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 Brijinder Mohan dba S S Mart ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 1431 South Austin Avenue in Denison, Grayson County, Texas (the "Facility").

2. The Respondent's three 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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 29, 2008.

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

6. An administrative penalty in the amount of Eight Thousand Six Hundred Seventy Dollars ($8,670) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Seventy-Eight Dollars ($578) of the administrative penalty and One Thousand Seven Hundred Thirty-Four Dollars ($1,734) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Three Hundred Fifty-Eight Dollars ($6,358) of the administrative penalty shall be payable in 11 monthly payments of Five Hundred Seventy-Eight Dollars ($578) 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 the Respondent 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 the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent 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 the Respondent 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

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

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

II. ALLEGATIONS

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

1. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on March 4, 2008. Specifically, the registration was not amended to reflect the current ownership change.

2. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5(B)(ii), as documented

during an investigation conducted on March 4, 2008. Specifically, the delivery certificate expired on January 31, 2008.

3. Failed to make available to a common carrier a valid, current delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on March 4, 2008. Specifically, the Respondent received one delivery of fuel without a delivery certificate.

4. Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on March 4, 2008.

5. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on March 4, 2008.

6. Failed to equip all fill pipes (including any connected fittings) in a new UST system with a removable or permanent factory-constructed drop tube which shall extend to within 12 inches of the tank bottom, in violation of 30 TEX. ADMIN. CODE § 334.45(e)(2)(D), as documented during an investigation conducted on March 4, 2008. Specifically, there were no drop tubes installed as required in the fill pipes for the UST system.

7. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on March 4, 2008.

8. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on March 4, 2008.

9. Failed to have an accurate means of measuring the level of stored substance over the full range of the tank's height to the nearest one-eighth of an inch, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(II) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on March 4, 2008. Specifically, the fuel stick being used for measuring the stored substance was missing the bottom tip, therefore was not capable of measuring the level of stored substance accurately.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Brijinder Mohan dba S S Mart, Docket No. 2008-0543-PST-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order:

      i. Cease accepting fuel until such time as a valid certificate is obtained from the TCEQ, in accordance with 30 TEX. ADMIN. CODE § 334.8;

      ii. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10; and

      iii. Begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.

   b. Within 30 days after the effective date of this Agreed Order:

      i. Equip all fill pipes in the UST system with drop tubes including any connected fittings, in accordance with 30 TEX. ADMIN. CODE § 334.45; and

      ii. Replace the gauge stick used to measure fuel level, begin recording inventory volume measurements for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, and begin conducting monthly reconciliation of the inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50.

   c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

      "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the

submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

_____ 9/26/2008
For the Executive Director 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 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

_____ 07/30/08
Signature Date

BRIJINDER MOHAN PROPRIETOR
Name (Printed or typed) Title
Authorized Representative of
Brijinder Mohan dba S S Mart

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.