

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2003-1045-PST-E TCEQ ID: RN100825090 CASE NO.: 9296
RESPONDENT NAME: FRIEND ENTERPRISES INC. DBA FRIENDLY MART

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 7200 Manchaca, Austin, Travis County</p> <p>TYPE OF OPERATION: Convenience store with sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 8, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC , (512) 239-0107 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Air Enforcement Section, MC 169, (512) 239-4490 TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929 Respondent: Mr. Sultanali Momin, President, Friend Enterprises Inc., 7200 Manchaca Road, Austin, Texas 78745 Respondent's Attorney: Mr. Ross G. Lavin, P.O. Box 302913, Austin, TX 78703</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><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>Dates of Investigation Relating to this Case: June 17, 2002 and September 11, 2003</p> <p>Dates of NOEs Relating to this Case: October 10, 2003 and November 9, 2003</p> <p>Background Facts: The EDRP was filed on January 18, 2005. An EDFARP was filed on October 11, 2006. An EDSARP was filed on January 19, 2007. The Respondent received notice of the EDSARP but failed to file an answer. A Default and Shutdown Order was set on the June 27, 2007, agenda, but was remanded because the Respondent appeared at the agenda through his attorney and requested an Agreed Order. The Respondent was provided with an Agreed Order containing a payment plan, however, the Respondent failed to sign and return the Agreed Order so a Default and Shutdown Order was placed on the October 8, 2008, agenda. The Respondent appeared at the October 8, 2008, agenda, at which time he signed an Agreed Order and remitted the penalty payment in full.</p> <p>Current Compliance Status: The Respondent is in compliance.</p> <p>PST:</p> <p>1. Failed to monitor the USTs for releases at a frequency of at least once per 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>2. Failed to conduct inventory control and reconciliation for a UST system at a retail facility [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>3. Failed to test or monitor the piping in the UST system for releases [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and (b)(2)(A)(ii), and TEX. WATER CODE § 26.3475(a)].</p>	<p>Total Assessed: \$15,300</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid to General Revenue: \$15,300</p> <p>The Respondent has paid the administrative penalty in full.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <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 Action(s) Taken: The Respondent has performed all the corrective actions.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 17, 2004

ICEQ
DATES PCW Screening Priority Due EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Friend Enterprises Inc. dba Friendly Mart		
Reg. Ent. Ref. No.	RN100825090		
Additional ID No(s).	Petroleum Storage Tank Registration No. 007146		
Facility/Site Region	<input type="text" value="11-Austin"/>	Major/Minor Source	<input type="text" value="Minor Source"/>

CASE INFORMATION

Enf./Case ID No.	<input type="text" value="9296"/>	No. of Violations	<input type="text" value="3"/>
Docket No.	<input type="text" value="2003-1045-PST-E"/>	Order Type	<input type="text" value="1660 without deferral"/>
Case Priority	<input type="text" value="2"/>	Enf. Coordinator	<input type="text" value="Merrilee Hupp"/>
Media Program(s)	<input type="text" value="Petroleum Storage Tank"/>	EC's Team	<input type="text" value="Enforcement Team 1"/>
Multi-Media	<input type="text"/>		
Admin. Penalty \$ Limit Minimum	<input type="text" value="\$0"/>	Maximum	<input type="text" value="\$10,000"/>

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	<input type="text" value="\$17,000"/>												
ADJUSTMENTS (+/-) TO SUBTOTAL 1														
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.														
Compliance History	<input type="text" value="-10% Enhancement"/>	Subtotals 2, 3, & 7 <input type="text" value="\$1,700"/>												
Notes	<input type="text" value="No orders or NOVs with the same or similar violations in the past 5 years."/>													
Culpability	<input type="text" value="No"/> <input type="text" value="0% Enhancement"/>	Subtotal 4 <input type="text" value="\$0"/>												
Notes	<input type="text" value="The Respondent does not meet the culpability criteria."/>													
Good Faith Effort to Comply	<input type="text" value="0% Reduction"/>	Subtotal 5 <input type="text" value="\$0"/>												
	<table border="1"> <tr> <td></td> <td>Before NOV</td> <td>NOV to EDRP/Settlement Offer</td> </tr> <tr> <td>Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>N/A</td> <td><input checked="" type="checkbox"/></td> <td><i>(mark with a small x)</i></td> </tr> </table>		Before NOV	NOV to EDRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	<input checked="" type="checkbox"/>	<i>(mark with a small x)</i>	
	Before NOV	NOV to EDRP/Settlement Offer												
Extraordinary	<input type="text"/>	<input type="text"/>												
Ordinary	<input type="text"/>	<input type="text"/>												
N/A	<input checked="" type="checkbox"/>	<i>(mark with a small x)</i>												
Notes	<input type="text" value="Compliance has not yet been achieved."/>													
Economic Benefit	<input type="text" value="0% Enhancement"/>	Subtotal 6 <input type="text" value="\$0"/>												
	<table border="1"> <tr> <td>Total EB Amounts</td> <td><input type="text" value="\$3,778"/></td> <td>*Capped at the Total EB \$ Amount</td> </tr> <tr> <td>Approx. Cost of Compliance</td> <td><input type="text" value="\$2,501"/></td> <td></td> </tr> </table>	Total EB Amounts	<input type="text" value="\$3,778"/>	*Capped at the Total EB \$ Amount	Approx. Cost of Compliance	<input type="text" value="\$2,501"/>								
Total EB Amounts	<input type="text" value="\$3,778"/>	*Capped at the Total EB \$ Amount												
Approx. Cost of Compliance	<input type="text" value="\$2,501"/>													
SUM OF SUBTOTALS 1-7	Final Subtotal	<input type="text" value="\$15,300"/>												
OTHER FACTORS AS JUSTICE MAY REQUIRE	<input type="text"/>	Adjustment <input type="text" value="\$0"/>												
Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)														
Notes	<input type="text"/>													
	Final Penalty Amount	<input type="text" value="\$15,300"/>												
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	<input type="text" value="\$15,300"/>												
DEFERRAL	<input type="text" value="0% Reduction"/>	Adjustment <input type="text" value="\$0"/>												
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)														
Notes	<input type="text" value="Deferrals are not recommended for nonexpedited orders."/>													
PAYABLE PENALTY		<input type="text" value="\$15,300"/>												

Screening Date 23-Sep-2003

Docket No. 2003-1045-PST-E

PCW

Respondent Friend Enterprises Inc. dba Friendly Mart

Policy Revision 2 (September 2002)

Case ID No. 9296

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN100825090

Additional ID No(s). Petroleum Storage Tank Registration No. 007146

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Merrilee Hupp

Site Address 7200 Manchaca Road, Austin, Travis County

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	0	0%
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)	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%
		<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)

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

No orders or NOVs with the same or similar violations in the past 5 years.

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

PCW

Screening Date 23-Sep-2003 **Docket No.** 2003-1045-PST-E

Respondent Friend Enterprises Inc. dba Friendly Mart *Policy Revision 2 (September 2002)*

Case ID No. 9296 *PCW Revision May 17, 2004*

Reg. Ent. Reference No. RN100825090

Additional ID No(s). Petroleum Storage Tank Registration No. 007146

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Merrilee Hupp

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description
 Failure to monitor the underground storage tanks (USTs) for release at a frequency of at least once per month, not to exceed 35 days between each monitoring, as documented during an investigation conducted on June 17, 2002.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
 Failure to monitor the USTs for release at a frequency of at least once per month can result in the exposure of a significant amount of contaminants which may exceed levels that are protective of human health and the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Three semiannual events are recommended from the investigation date of June 17, 2002 to the settlement deadline date of December 14, 2003 to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,380"/>	Violation Final Penalty Total <input type="text" value="\$6,750"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,750"/>	

Economic Benefit Worksheet

Respondent Friend Enterprises Inc. dba Friendly Mart
 Case ID No. 9296
 Reg. Ent. Reference No. RN100825090
 Additional ID No(s). Petroleum Storage Tank Registration No. 007146
 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	Overtime 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

Item	Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime 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)	\$1,200	17-Jun-2002	30-Mar-2005	3.0	\$180	\$1,200	\$1,380

Notes for AVOIDED costs

Estimated annualized cost to perform statistical inventory reconciliation (SIR). Date required is based on the investigation date. Final date is based on the projected compliance date.

Approx. Cost of Compliance **\$1,200**

TOTAL \$1,380

Screening Date 23-Sep-2003

Docket No. 2003-1045-PST-E

PCW

Respondent Friend Enterprises Inc. dba Friendly Mart

Policy Revision 2 (September 2002)

Case ID No. 9296

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN100825090

Additional ID No(s). Petroleum Storage Tank Registration No. 007146

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Merrilee Hupp

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Friend Enterprises Inc. dba Friendly Mart
 Case ID No. 9296
 Reg. Ent. Reference No. RN100825090
 Additional ID No(s). Petroleum Storage Tank Registration No. 007146
 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Item	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel	\$801	17-Jun-2002	30-Mar-2005	2.8	\$112	\$2,232	\$2,343
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

Estimated expense for inventory control (\$6.00/hour x 0.25 hours/day x 365 days/year x 1.5 years). Date required is the investigation date and the final date is the projected compliance date.

Approx. Cost of Compliance

TOTAL

Screening Date 23-Sep-2003 **Docket No.** 2003-1045-PST-E **PCW**
Respondent Friend Enterprises Inc. dba Friendly Mart *Policy Revision 2 (September 2002)*
Case ID No. 9296 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN100825090
Additional ID No(s). Petroleum Storage Tank Registration No. 007146
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Merrilee Hupp
Violation Number 3
Primary Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(b)(2)(A)(i)(III) and 334.50(b)(2)(A)(ii)
Secondary Rule Cite(s) Tex. Water Code § 26.3475(a)
Violation Description
 Failure to test or monitor the piping in the UST system for releases. Specifically, the Respondent failed to test the pressurized lines for releases and failed to conduct a performance test of the line leak detectors, as documented during an investigation conducted on September 11, 2003.
Base Penalty \$10,000

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

Release	Major	Moderate	Minor
Actual			
Potential		X	

 Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

 Percent
Matrix Notes
 Failure to test the piping for leaks could allow a release of significant proportions to remain undetected for a period of time but the release would not exceed levels that are protective of human health or the environment.
Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events
 Number of Violation Events 2

daily	
monthly	
quarterly	
semiannual	X
annual	
single event	

 Violation Base Penalty \$2,000
 Two semiannual events are recommended for the period from September 11, 2003, when the investigation was conducted until April 16, 2004, when the case was screened, to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$54	Violation Final Penalty Total \$1,800
This violation Final Assessed Penalty (adjusted for limits) \$1,800	

Economic Benefit Worksheet

Respondent Friend Enterprises Inc. dba Friendly Mart
 Case ID No. 9296
 Reg. Ent. Reference No. RN100825090
 Additional ID No(s). Petroleum Storage Tank Registration No. 007146
 Media [Statute] Petroleum Storage Tank
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	11-Sep-2003	30-Mar-2005	1.6	\$3	\$52	\$54
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: The amount listed above is an estimate of the annual cost of conducting the tests. 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 **\$54**

Compliance History

Customer/Respondent/Owner-Operator:	CN601370315 FRIEND ENTERPRISES INC	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN100825090 FRIENDLY MART	Classification: HIGH	Site Rating: 0.00
ID Number(s):	EDWARDS AQUIFER	REGISTRATION	11-94101701
	PETROLEUM STORAGE TANK	REGISTRATION	7146
	REGISTRATION		
Location:	7200 MANCHACA RD, AUSTIN, TX, 78745		Rating Date: 9/1/03 Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	October 09, 2003		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 24, 1998 to September 24, 2003		

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

Name: Thomas Jecha Phone: 512-239-2576

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 dates of investigations.
N/A
2 05/13/1999
3 08/27/2002
 - E. Written notices of violations (NOV).
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
AGAINST FRIEND ENTERPRISES
INC. DBA FRIENDLY MART;
RN100825090**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2003-1045-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 Friend Enterprises Inc. dba Friendly Mart ("Friend Enterprises") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Friend Enterprises, represented by Ross G. Lavin of the Law Office of Ross G. Lavin, appear before the Commission and together stipulate that:

1. Friend Enterprises owns and operates a convenience store with retail sales of gasoline located at 7200 Manchaca, Austin, Travis 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 Friend Enterprises agree that the Commission has jurisdiction to enter this Agreed Order, and that Friend Enterprises is subject to the Commission's jurisdiction.
4. Friend Enterprises received notice of the violations alleged in Section II ("Allegations") on or about October 15, 2003 and November 14, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Friend Enterprises of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of fifteen thousand three hundred dollars (\$15,300.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Friend Enterprises has paid the full fifteen thousand three hundred dollars (\$15,300.00) administrative penalty.
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 Friend Enterprises have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director of the TCEQ recognizes that Friend Enterprises has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. Respondent installed and implemented a release detection method;
 - b. Respondent has begun conducting inventory control and reconciliation procedures; and
 - c. Respondent tests or monitors the piping in the UST system for releases.
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 Friend Enterprises 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

Friend Enterprises is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) by failing to monitor the USTs for releases at a frequency of at least once per month, not to exceed 35 days between each monitoring as documented on June 17, 2002.
2. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct inventory control and reconciliation for a UST system at a retail facility as documented on June 17, 2002.

3. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and 334.50(b)(2)(A)(ii), and TEX. WATER CODE § 26.3475(a) by failing to test or monitor the piping in the UST system for releases. Specifically, Friend Enterprises failed to test the pressurized lines for releases and failed to conduct a performance test of the line leak detectors as documented on September 11, 2003.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Friend Enterprises pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Friend Enterprises' 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: Friend Enterprises, Inc. dba Friendly Mart, Docket No. 2003-1045-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. The provisions of this Agreed Order shall apply to and be binding upon Friend Enterprises.
3. This Agreed Order, issued by the Commission, shall not be admissible against Friend Enterprises 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Friend Enterprises, or three days after the date on which the Commission mails notice of the Order to Friend Enterprises, 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

Gregory Perdue

For the Executive Director

11/6/08

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.

Momin

Signature

10-2-08

Date

SUTTANALI MOMIN

Name (Printed or typed)

PRESIDENT

Title

Authorized representative of

Friend Enterprises, Inc. dba Friendly Mart