

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1357-AIR-E **TCEQ ID:** RN102704095 **CASE NO.:** 34476

RESPONDENT NAME: Peace Partners Car Wash, L.L.C.

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 checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input 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: Quick Stop, 7301 North Loop Drive, El Paso, El Paso County</p> <p>TYPE OF OPERATION: Convenience store with retail 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 March 31, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Audra L. Ruble, Enforcement Division, Enforcement Team 4, MC R-14, (361) 825-3126; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Michael Yardeni, Manager, Peace Partners Car Wash, L.L.C., 8201 Lockheed Drive, Suite 235, El Paso, Texas 79925 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

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(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 4, 2007</p> <p>Date of NOE Relating to this Case: July 20, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to comply with the maximum Reid Vapor Pressure ("RVP") requirement of 7.0 pounds per square inch absolute ("psia"), during the control period of June 1 through September 16. Specifically, samples taken of premium grade and mid grade unleaded gasoline at Pump No. 6 were found to have RVPs of 8.43 and 7.66 psia, respectively [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,040</p> <p>Total Deferred: \$408 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,632</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input 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 Actions Taken:</p> <p>The Executive Director recognizes that the Respondent sold the Station on June 27, 2007.</p>

Additional ID No(s): Air Account No. EE1850E



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 26, 2007

DATES	Assigned	23-Jul-2007	Screening	21-Aug-2007	EPA Due	
	PCW	21-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Peace Partners Car Wash, L.L.C.		
Reg. Ent. Ref. No.	RN102704095		
Facility/Site Region	6-El Paso	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34476	No. of Violations	1
Docket No.	2007-1357-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Audra L. Ruble
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty \$	Limit Minimum	\$0	Maximum \$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$2,000
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 \$40
Notes	The Respondent has received one NOV for non-similar violations in the past five years.		
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 effort criteria.		
		0% Enhancement*	Subtotal 6 \$0
Total EB Amounts		\$0	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance		\$100	
SUM OF SUBTOTALS 1-7		Final Subtotal	\$2,040
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)			
Notes			
		Final Penalty Amount	\$2,040
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$2,040
DEFERRAL		20% Reduction Adjustment	-\$408
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$1,632

Screening Date 21-Aug-2007

Docket No. 2007-1357-AIR-E

PCW

Respondent Peace Partners Car Wash, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 34476

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102704095

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has received one NOV for non-similar violations in the past five years.

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

Screening Date 21-Aug-2007 **Docket No.** 2007-1357-AIR-E **PCW**
Respondent Peace Partners Car Wash, L.L.C. *Policy Revision 2 (September 2002)*
Case ID No. 34476 *PCW Revision June 26, 2007*
Reg. Ent. Reference No. RN102704095
Media [Statute] Air Quality
Enf. Coordinator Audra L. Ruble

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 115.252(2) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to comply with the maximum Reid Vapor Pressure ("RVP") requirement of 7.0 pounds per square inch absolute ("psia") during the control period of June 1 through September 16, as documented by an investigation conducted on June 4, 2007. Specifically, samples taken of premium grade and mid grade unleaded gasoline at Pump No. 6 were found to have RVPs of 8.43 and 7.66 psia, respectively.
Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="10%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

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

Adjustment

Violation Events

Number of Violation Events **Number of violation days**
mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

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: Peace Partners Car Wash, L.L.C.
 Case ID No. 34476
 Reg. Ent. Reference No. RN102704095
 Media Air Quality
 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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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	4-Jun-2007	27-Jun-2007	-0.1	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to ensure that gasoline has an RVP greater than 7.0 psia. Date required is the date of the inspection. Final date is the date the Respondent sold the facility.

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

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN603213752 DASHMESH INC	Classification:	Rating:
Regulated Entity:	RN102704095 QUICK STOP	Classification: AVERAGE	Site Rating: 1.0
ID Number(s):	AIR QUALITY NON PERMITTED PETROLEUM STORAGE TANK REGISTRATION	ACCOUNT NUMBER REGISTRATION	EE1850E 0067069
Location:	7301 N LOOP DR, EL PASO, TX, 79915		
TCEQ Region:	REGION 06 - EL PASO		
Date Compliance History Prepared:	August 14, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 14, 2002 to August 14, 2007		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Audra Ruble	Phone:	361-825-3126

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? | <u>DASHMESH INC</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Transmountain Oil Company, L.C.</u>
<u>Peace Partners Car Wash, L.L.C.</u> |
| 5. When did the change(s) in ownership occur? | <u>10/14/2004</u>
<u>06/27/2007</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 | 08/14/2002 | (7462) |
| 2 | 10/22/2002 | (11244) |
| 3 | 11/19/2002 | (14761) |
| 4 | 11/24/2004 | (341555) |
| 5 | 05/19/2005 | (380538) |
| 6 | 06/24/2005 | (397227) |
| 7 | 07/17/2007 | (567076) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 11/18/2004 | (341555) | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.245(2) | | |
| Description: | The facility failed to have documentation on site that a successful triennial testing had been conducted within the last 36 months. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.248(2) | | |
| Description: | The Facility failed to have documentation on site that an employee had been trained as a Stage II Facility Representative. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.7(d)(3) | | |
| Description: | The Facility failed to amend their Registration Form. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 37, SubChapter I 37.875[G] | | |

Description: The Facility failed to have their Financial Responsibility Documentation in the TCEQ Format.

Self Report? NO

Classification: Minor

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

Description: The Facility failed to have documentation showing a method capable of detecting a release from any portion of the UST system which contains regulated substances including the tanks, and piping.

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
PEACE PARTNERS CAR
WASH, L.L.C.
RN102704095

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1357-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Peace Partners Car Wash, L.L.C. ("Peace Partners") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Peace Partners appear before the Commission and together stipulate that:

1. Peace Partners owned and operated a convenience store with retail gasoline sales located at 7301 North Loop Drive in El Paso, El Paso County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Peace Partners agree that the Commission has jurisdiction to enter this Agreed Order, and that Peace Partners is subject to the Commission's jurisdiction.
4. Peace Partners received notice of the violations alleged in Section II ("Allegations") on or about July 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Peace Partners of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Forty Dollars (\$2,040) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Peace

Partners has paid One Thousand Six Hundred Thirty-Two Dollars (\$1,632) of the administrative penalty and Four Hundred Eight Dollars (\$408) is deferred contingent upon Peace Partners' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Peace Partners fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Peace Partners to pay all or part of the deferred 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 Peace Partners 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 Peace Partners sold the Station on June 27, 2007.
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 Peace Partners 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

As owner and operator of the Station, Peace Partners is alleged to have failed to comply with the maximum Reid Vapor Pressure ("RVP") requirement of 7.0 pounds per square inch absolute ("psia") during the control period of June 1 through September 16, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented by an investigation conducted on June 4, 2007. Specifically, samples taken of premium grade and mid grade unleaded gasoline at Pump No. 6 were found to have RVPs of 8.43 and 7.66 psia, respectively.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Peace Partners pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Peace Partners' 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: Peace Partners Car Wash, L.L.C., Docket No. 2007-1357-AIR-E" to:

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

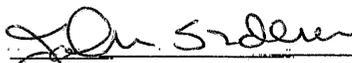
2. The provisions of this Agreed Order shall apply to and be binding upon Peace Partners. Peace Partners is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station's operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Peace Partners in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Peace Partners, or three days after the date on which the Commission mails notice of the Order to Peace Partners, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Peace Partners Car Wash, L.L.C.
DOCKET NO. 2007-1357-AIR-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 3/10/2008

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.



Signature

Date 12/14/07

MIKE YARDEN

Name (Printed or typed)
Authorized Representative of
Peace Partners Car Wash, L.L.C.

Title MGR.

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.

