EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1099-PST-E TCEQ ID: RN102256211 CASE NO: 30576
RESPONDENT NAME: ANNA ENTERPRISES INC. DBA CHARLIES FOOD MART 2

ORDER TYPE:		
__1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
_X_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: 23115 Aldine Westfield Road, Spring, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: __X__ Yes ____ No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 7, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Mary Hammer, Litigation Division, MC R-4, (817) 588-5927
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577
TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, R-12, (713) 767-3623
Respondent: Mr. Shazad Din, Registered Agent, Anna Enterprises Inc., 20402 Long Cypress Drive, Spring, TX 77388
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: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** July 11, 2006 **Date of NOE Relating to this Case:** July 25, 2006 **Background Facts:** An EDPRP was filed on February 6, 2007. The Respondent received notice of the EDPRP, as evidenced by the signature on the "green card," which was signed on February 8, 2007. The Respondent has not filed an answer or requested a settlement conference. The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report. **PST:** 1. Failed to maintain UST records and make them immediately available for inspection upon request by the TCEQ investigator [30 TEX. ADMIN. CODE § 334.10(b)]. 2. 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 [30 TEX. ADMIN. CODE § 334.48(c)]. 3. Failed to monitor USTs for releases at a frequency of at least once every month, not to exceed 35 days between each monitoring [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)]. 4. Failed to provide proper corrosion protection for the UST system [30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d)].	**Total Assessed:** $8,840 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **Total Due to General Revenue:** $8,840 This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order. **Site Compliance History Classification** __ High _X_ Average __ Poor **Person Compliance History Classification** __ High _X_ Average __ Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Action Taken:** The Executive Director recognizes that Respondent ceased to be the owner or operator of the facility on January 1, 2007.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision January 9, 2007*

TCEQ

DATES					
Assigned	31-Jul-2006				
PCW	20-Jun-2007	Screening	1-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Anna Enterprises Inc. dba Charlies Food Mart 2		
Reg. Ent. Ref. No.	RN102256211		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	30576	No. of Violations	4
Docket No.	2006-1099-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya
Multi-Media		EC's Team	EnforcementTeam 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 -6% Enhancement — *Subtotals 2, 3, & 7* -$510

Notes: Enhancement for two NOVs with dissimilar violations and reduction for Higher Performer classification.

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	$1,057
Approx. Cost of Compliance	$12,200

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $7,990

OTHER FACTORS AS JUSTICE MAY REQUIRE 10% — *Adjustment* $850

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes: Because this is a Default Order, the Executive Director recommends an upward adjustment to offset the reduction for compliance history.

Final Penalty Amount $8,840

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $8,840

DEFERRAL Reduction — *Adjustment* $0

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY $8,840

Screening Date 1-Aug-2006 **Docket No.** 2006-1099-PST-E **PCW**

Respondent Anna Enterprises Inc. dba Charlies Food Mart 2

Policy Revision 2 (September 2002)

Case ID No. 30576

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102256211

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

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	2	4%
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) 4%

>> 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

Enhancement for two NOVs with dissimilar violations and reduction for Higher Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -6%

Screening Date	1-Aug-2006	**Docket No.** 2006-1099-PST-E	**PCW**
Respondent	Anna Enterprises Inc. dba Charlies Food Mart 2		*Policy Revision 2 (September 2002)*
Case ID No.	30576		*PCW Revision January 9, 2007*
Reg. Ent. Reference No.	RN102256211		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Rajesh Acharya		

Violation Number 1

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

Violation Description Failed to maintain UST records and make immediately available for inspection upon request by the TCEQ investigator. Specifically, records for release detection, corrosion protection and inventory control measurements were not available.

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

21 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 the July 11, 2006 investigation date.

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $1,040

This violation Final Assessed Penalty (adjusted for limits) $1,040

Economic Benefit Worksheet

Respondent Anna Enterprises Inc. dba Charlies Food Mart 2
Case ID No. 30576
Reg. Ent. Reference No. RN102256211
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	$200	11-Jul-2006	11-Feb-2007	0.6	$6	n/a	$6
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 the required records. Date Required is the investigation date. Final Date is the estimated 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: $200

TOTAL: $6

Screening Date 1-Aug-2006 **Docket No.** 2006-1099-PST-E **PCW**

Respondent Anna Enterprises Inc. dba Charlies Food Mart 2 *Policy Revision 2 (September 2002)*

Case ID No. 30576 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN102256211

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

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 .

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 | 21 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 from the investigation date of July 11, 2006 to the screening date of August 01, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $15

Statutory Limit Test

Violation Final Penalty Total $2,600

This violation Final Assessed Penalty (adjusted for limits) $2,600

Economic Benefit Worksheet

Respondent Anna Enterprises Inc. dba Charlies Food Mart 2
Case ID No. 30576
Reg. Ent. Reference No. RN102256211
Media 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
	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$500	11-Jul-2006	11-Feb-2007	0.6	$15	n/a	$15

Notes for DELAYED costs: Estimated cost to conduct inventory control for all USTs. Date Required is the investigation date. Final Date is the estimated 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: $15

Screening Date 1-Aug-2006 **Docket No.** 2006-1099-PST-E **PCW**

Respondent Anna Enterprises Inc. dba Charlies Food Mart 2 *Policy Revision 2 (September 2002)*

Case ID No. 30576 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN102256211

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor USTs for releases at a frequency of at least once every month(not to exceed 35 days between each monitoring).

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

21 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 from the investigation date of July 11, 2006 to the screening date of August 01, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $100

Statutory Limit Test

Violation Final Penalty Total $2,600

This violation Final Assessed Penalty (adjusted for limits) $2,600

Economic Benefit Worksheet

Respondent Anna Enterprises Inc. dba Charlies Food Mart 2
Case ID No. 30576
Reg. Ent. Reference No. RN102256211
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				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$1,500	11-Jul-2006	11-Nov-2007	1.3	$100	n/a	$100
Notes for DELAYED costs	Estimated cost to provide release detection for the UST system. Date Required is the date of investigation. Final Date is the estimated 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: $100

Screening Date 1-Aug-2006 **Docket No.** 2006-1099-PST-E **PCW**

Respondent Anna Enterprises Inc. dba Charlies Food Mart 2

Policy Revision 2 (September 2002)

Case ID No. 30576

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN102256211

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide proper corrosion protection for the UST system.

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

21 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 from the investigation date of July 11, 2006 to the screening date of August 01, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $936

Statutory Limit Test

Violation Final Penalty Total $2,600

This violation Final Assessed Penalty (adjusted for limits) $2,600

Economic Benefit Worksheet

Respondent Anna Enterprises Inc. dba Charlies Food Mart 2
Case ID No. 30576
Reg. Ent. Reference No. RN102256211
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	$10,000	11-Jul-2006	11-Nov-2007	1.3	$45	$891	$936
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 provide corrosion protection for the UST system. Date Required is the investigation date. Final Date is the estimated compliance date.

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: $10,000

TOTAL: $936

Compliance History

Customer/Respondent/Owner-Operator:	CN601577471	Anna Enterprises, Inc.	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN102256211	CHARLIES FOOD MART	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	5425	
Location:	23115 ALDINE WESTFIELD RD, SPRING, TX, 77373		Rating Date: September 01 06	Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 21, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 21, 2002 to February 21, 2007

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

Name: Rajesh Acharya Phone: (512) 239-0577

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A
1 07/25/2006 (482252)
2 10/06/2006 (512169)
3 12/21/2006 (533203)
4 02/12/2007 (486310)

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

Date: 10/06/2006 (512169)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)
Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the TCEQ, EPA, or any local air pollution control program with jurisdiction.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)
Description: Failure to maintain a daily inspection log according to 115.244 (Inspection Requirements).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)
Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: Failure to maintain a maintenance log for all repair/replacements conducted at the facility.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(B)

Description: Failure to maintain hose in a manner that the hose is not crimped, kinked, or flattened such that the vapor passage is blocked, or the back-pressure through the vapor system exceeds the value as certified in the approved system's CARB Executive Order(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, which must be performed at least once every 36 months.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failure to install a secure anchor at the base of the dispenser in each pressurized delivery or product line, a UL-listed emergency shutoff valve in piping systems in which regulated substances are conveyed under pressure to an aboveground dispensing unit.

Date: 12/21/2006 (533203)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the TCEQ, EPA, or any local air pollution control program with jurisdiction.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)

Description: Failure to maintain a daily inspection log according to 115.244 (Inspection Requirements).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: Failure to maintain a maintenance log for all repair/replacements conducted at the facility.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(B)

Description: Failure to maintain hose in a manner that the hose is not crimped, kinked, or flattened such that the vapor passage is blocked, or the back-pressure through the vapor system exceeds the value as certified in the approved system's CARB Executive Order(s).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, which must be performed at least once every 36 months.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failure to install a secure anchor at the base of the dispenser in each pressurized delivery or product line, a UL-listed emergency shutoff valve in piping systems in which regulated substances are conveyed under pressure to

an aboveground dispensing unit.

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 ANNA ENTERPRISES INC. DBA CHARLIES FOOD MART 2, RN102256211

BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-1099-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Anna Enterprises Inc. dba Charlies Food Mart 2 ("Anna Enterprises ").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Anna Enterprises owned and operated a convenience store with retail sales of gasoline at 23115 Aldine Westfield Road in Spring, Harris County, Texas (the "Facility").

2. Anna Enterprises's two underground storage tanks ("USTs") were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Anna Enterprises's USTs contained a regulated petroleum substance as defined in the rules of the Commission.

3. During an inspection conducted on July 11, 2006, a TCEQ Houston Regional Office investigator documented that Anna Enterprises violated the following requirements:

   a. Failed to maintain UST records and make them immediately available for inspection upon request by the TCEQ investigator. Specifically, records for release detection, corrosion protection and inventory control measurements were not available;

b. 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;

c. Failed to monitor USTs for releases at a frequency of at least once every month, not to exceed 35 days between each monitoring; and

d. Failed to provide proper corrosion protection for the UST system.

4. Anna Enterprises received notices of the violations on or about July 30, 2006.

5. The Executive Director recognizes that Anna Enterprises ceased to be the owner or operator of the Facility on January 1, 2007.

6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Anna Enterprises, Inc. dba Charlies Food Mart 2" (the "EDPRP") in the TCEQ Chief Clerk's office on February 6, 2007.

7. By letter dated February 6, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Anna Enterprises with notice of the EDPRP. According to the return receipt "green card," Anna Enterprises received notice of the EDPRP on February 8, 2007, as evidenced by the signature on the card.

8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Anna Enterprises Inc. dba Charlies Food Mart 2" (the "EDFARP") in the TCEQ Chief Clerk's office on June 20, 2007.

9. By letter dated June 20, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Anna Enterprises with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Anna Enterprises received notice of the EDFARP.

10. More than 20 days have elapsed since Anna Enterprises received notice of the EDPRP and the EDFARP, which were provided by the Executive Director. Anna Enterprises failed to file an answer to the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Anna Enterprises is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, 30 TEX. ADMIN. CODE ch. 334 and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3.a., Anna Enterprises failed to maintain UST records and make them immediately available for inspection upon request by the TCEQ investigator, in violation of 30 TEX. ADMIN. CODE § 334.10(b).

3. As evidenced by Finding of Fact No. 3.b., Anna Enterprises 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, in violation of 30 TEX. ADMIN. CODE § 334.48(c).

4. As evidenced by Finding of Fact No. 3.c., Anna Enterprises failed to monitor USTs for releases at a frequency of at least once every month, not to exceed 35 days between each monitoring, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).

5. As evidenced by Finding of Fact No. 3.d., Anna Enterprises failed to provide proper corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(1) and TEX. WATER CODE § 26.3475(d).

6. As evidenced by Findings of Fact Nos. 6 and 7, the Executive Director has timely served Anna Enterprises with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

7. As evidenced by Findings of Fact Nos. 8 and 9, the Executive Director has timely served Anna Enterprises with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

8. As evidenced by Finding of Fact No. 10, Anna Enterprises has failed to file a timely answer to the EDPRP or the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Anna Enterprises and assess the penalty recommended by the Executive Director.

9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Anna Enterprises for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of

rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

10. An administrative penalty in the amount of eight thousand eight hundred forty dollars ($8,840.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Anna Enterprises is assessed an administrative penalty in the amount of eight thousand eight hundred forty dollars ($8,840.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Anna Enterprises's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Anna Enterprises Inc. dba Charlies Food Mart 2; Docket No. 2006-1099-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. All relief not expressly granted in this Order is denied.

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

4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated

showing of good cause. All requests for extensions by Anna Enterprises shall be made in writing to the Executive Director. Extensions are not effective until Anna Enterprises receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Anna Enterprises if the Executive Director determines that Anna Enterprises has not complied with one or more of the terms or conditions in this Order.

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

7. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____

For the Commission

AFFIDAVIT OF MARY HAMMER

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

"My name is Mary Hammer. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Anna Enterprises, Inc. dba Charlies Food Mart 2" (the "EDPRP") with the Office of the Chief Clerk on February 6, 2007.

I sent the EDPRP to Anna Enterprises at its last known address on February 6, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Anna Enterprises received notice of the EDPRP on February 8, 2007, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Anna Enterprises Inc. dba Charlies Food Mart 2" (the "EDFARP") with the Office of the Chief Clerk on June 20, 2007.

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More than 20 days have elapsed since Anna Enterprises received notice of the EDPRP and the EDFARP. Anna Enterprises failed to file an answer to the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference."

Mary Hammer
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Mary Hammer, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 13 day of February A.D., 2008.

Notary Stamp Margaret Jackson
Notary Public
State of Texas
My Commission Expires
OCTOBER 06, 2009

Notary Signature