



VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> February 24, 2006, March 7 and 24, 2006</p> <p><b>Date of NOE Relating to this Case:</b> September 5, 2006</p> <p><b>Background Facts:</b> An EDP RP was filed on February 6, 2007. The Respondent received notice of the EDP RP on or about February 11, 2007. The Respondent has not filed an answer or requested a hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to test the line leak detectors at least once per year for performance and operational reliability, failed to provide proper release detection for the piping associated with the USTs, and failed to conduct reconciliation of detailed inventory control records at least once each month sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III), (b)(2)(A)(ii)(I), (b)(2)(A)(ii)(II), and § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a) and (c)(1)].</li> <li>Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</li> </ol>	<p><b>Total Assessed:</b> \$24,600</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$24,600</p> <p>This is a Default Order.</p> <p>The Respondent has not actually paid any of the assessed penalty, but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent no longer owns or operates the Facility per the TCEQ PST Registration Database and that Billal, Inc. has registered as the owner and operator of the Facility as of June 1, 2006.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

<b>DATES</b>	<b>Assigned</b>	11-Sep-2006	<b>Screening</b>	15-Sep-2006	<b>EPA Due</b>	
	<b>PCW</b>	26-Sep-2006				

RESPONDENT/FACILITY INFORMATION	
<b>Respondent</b>	Adelakun Martin dba National Mart
<b>Reg. Ent. Ref. No.</b>	RN101735496
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor Source

CASE INFORMATION			
<b>Enf./Case ID No.</b>	31363	<b>No. of Violations</b>	2
<b>Docket No.</b>	2006-1789-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Rajesh Acharya
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$15,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	64% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$9,600
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**Notes** Enhancement for two NOVs which is dissimilar to current enforcement action, one court order, and poor performer classification.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes** The respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

**Notes** The respondent does not meet the good faith effort.

<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,174	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,500	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$24,600
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

**Notes**

<b>Final Penalty Amount</b>	\$24,600
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<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b>	\$24,600
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<b>DEFERRAL</b>		<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** This is not an expedited case.

<b>PAYABLE PENALTY</b>	\$24,600
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<b>Screening Date</b>	-Sep-2006	<b>Docket No.</b>	2006-1789	E-E	<b>PCW</b>
<b>Respondent</b>	Adelakun Martin dba National Mart			Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	31363	PCW Revision May 19, 2005			
<b>Reg. Ent. Reference No.</b>	RN101735496				
<b>Media [Statute]</b>	Petroleum Storage Tank				
<b>Enf. Coordinator</b>	Rajesh Acharya				

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action ( <i>number of NOV's meeting criteria</i> )	0	0%
	Other written NOV's	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	1	50%
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 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)**

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)**

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)**

>> **Compliance History Summary**

**Compliance History Notes**

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

**Screening Date** 15- 2006 **Docket No.** 2006-1789-PST **PCW**  
**Respondent** Adalakun Martin dba National Mart *Policy Revision 2 (September 2002)*  
**Case ID No.** 31363 *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN101735496  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Rajesh Acharya  
**Violation Number** 1

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III), 334.50(b)(2)(A)(ii)(I), 334.50(b)(2)(A)(ii)(II) and 334.50(d)(1)(B)(II)  
**Secondary Rule Cite(s)** Tex. Water Code § 26.3475(a) and (c)(1)

**Violation Description**  
 Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to provide proper release detection for the piping associated with the USTs. Specifically, monthly monitoring or annual piping tightness test had not been conducted. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow through for the month plus 130 gallons.

**Base Penalty** \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential	X			

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
						Percent

**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

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

**Violation Events**

**Number of Violation Events** 3

*mark only one use a small x*

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

Three quarterly events are recommended from the February 24, 2006 investigation date to the September 15, 2006 date of screening.

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

**Estimated EB Amount** \$1,143

**Violation Final Penalty Total** \$12,300

**This violation Final Assessed Penalty (adjusted for limits)** \$12,300

### Economic Benefit Worksheet

**Respondent** Adelakun Martin dba National Mart  
**Case ID No.** 31363  
**Reg. Ent. Reference No.** RN101735496  
**Media [Statute]** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	24-Feb-2006	24-Jun-2007	1.3	\$4	\$89	\$93
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 release detection for the USTs. 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)	\$1,000	24-Feb-2005	24-Feb-2006	1.0	\$50	\$1,000	\$1,050

Notes for AVOIDED costs: Avoided cost for annual piping tightness test and line-leak detector tests. Date Required is one year prior to the investigation date. Final Date is the investigation date.

Approx. Cost of Compliance \$2,000
**TOTAL** \$1,143

<b>Screening Date</b>	15- 2006	<b>Docket No.</b>	2006-1789-PST	<b>PCW</b>
<b>Respondent</b>	Adelakun Martin dba National Mart			Policy Revision 2 (September 2002)
<b>Case ID No.</b>	31363			PCW Revision May 19, 2005
<b>Reg. Ent. Reference No.</b>	RN101735496			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			
<b>Violation Number</b>	2			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 334.48(c)			
<b>Secondary Rule Cite(s)</b>				
<b>Violation Description</b>	Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.			
	<b>Base Penalty</b>	\$10,000		

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

OR	<b>Harm</b>			
	Major	Moderate	Minor	
	Actual	Potential		<b>Percent</b> 25%
	X			

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b>
<b>Matrix Notes</b>	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

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

**Violation Events**

Number of Violation Events

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$7,500

Three quarterly events are recommended from the February 24, 2006 investigation date to the September 15, 2006 date of screening.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> \$31	<b>Violation Final Penalty Total</b> \$12,300
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$12,300	

### Economic Benefit Worksheet

Respondent: Adalakun Martin dba National Mart  
 Case ID No: 31363  
 Reg. Ent. Reference No: RN101735496  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Description: 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	\$500	24-Feb-2006	24-May-2007	1.2	\$31	n/a	\$31
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 conduct proper inventory control procedures. 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

\$500

**TOTAL**

\$31

# Compliance History

Customer/Respondent/Owner-Operator:	CN600933220 Martin Adelakun	Classification: POOR	Rating: 52.40
Regulated Entity:	RN101735496 NATIONAL MART	Classification: POOR	Site Rating: 52.40
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	74264
Location:	6643 CULLEN BLVD, HOUSTON, TX, 77021	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	October 06, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 22, 2001 to September 22, 2006		

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?   | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### Components (Multimedia) for the Site :

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

B. Any criminal convictions of the state of Texas and the federal government.  
 Conviction Date: 10/1/2003 12:00:00AM Type of Action: COURTOORDER  
 Classification: Major  
 Rqmt Prov:  
 Citation: 8 State Penal Code Chapter 37 37.09[G]  
 Description: Misdemeanor violation of tampering with a government record.

C. Chronic excessive emissions events.  
N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- |   |            |          |
|---|------------|----------|
| 1 | 02/23/2005 | (398429) |
| 2 | 07/14/2005 | (398745) |
| 3 | 04/28/2006 | (459483) |
| 4 | 10/01/2003 | (292561) |
| 5 | 09/05/2006 | (459675) |

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |                  |  |                          |
|------------------|--|--------------------------|
| Date: 02/23/2005 | (398429)   |                          |
| Self Report? NO  |  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 37, SubChapter I 37.815(a)[G]   |                          |
|                  | 30 TAC Chapter 37, SubChapter I 37.815(b)[G]   |                          |
| Description:     | Failure to provide acceptable Financial Assurance.   |                          |
| Date: 04/28/2006 | (459483)   |                          |
| Self Report? NO  |  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 115, SubChapter C 115.246(7)(A)   |                          |
| Description:     | 30 TAC §115.246 (7)(A) - 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 Texas Commission on Environmental Quality (TCEQ), the U.S. Environmental Protection Agency (EPA), or any local a |                          |
| Self Report? NO  |  | Classification: Minor    |
| Citation:        |  |                          |

Description: 30 TAC Chapter 115, SubChapter C 115.246(6)  
 30 TAC §115.246 (6) - 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 115.244(3)  
 Description: 30 TAC §115.244 (3) - Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). These components include: any pressure/vacuum relief valves, vapor check valves and Stage I dry breaks.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  
 Description: 30 TAC §115.246 (4) - 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.  
 At the time of the investigation, documentation of attendance and completion of a Stage II training  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)  
 Description: 30 TAC §115.246 (3) - Failure to maintain a maintenance log for all repair/replacements conducted at the facility.  
 At the time of the investigation, documentation of a Stage II maintenance log was not available for review.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)  
 Description: 30 TAC §115.246(1) - Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II Vapor Recovery system and any related components installed at the facility.  
 At the time of the investigation, the applicable CARB Executive Order for the Stage II system in place at the fa  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)  
 Description: 30 TAC §115.246 (5) - Failure to maintain a record of the results of testing conducted at the facility according to 115.245 (Testing Requirements).

- 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 MARTIN ADELAKUN  
DBA NATIONAL MINI MART;  
RN101735496

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2006-1789-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary 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 imposition of an administrative penalty. The respondent made the subject of this Order is Martin Adalakun dba National Mini Mart ("Mr. Adalakun").

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

**FINDINGS OF FACT**

1. Mr. Adalakun owned and operated a convenience store with retail sales of gasoline located at 6643 Cullen Boulevard, Houston, Harris County, Texas (the "Facility").
2. Mr. Adalakun's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Adalakun's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During inspections conducted on or about February 24, 2006, March 7, 2006, and March 24, 2006, a TCEQ Houston Regional Office investigator documented that Mr. Adalakun violated the following requirements:
  - a. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III), (b)(2)(A)(ii)(I), (b)(2)(A)(ii)(II), and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a) and (c)(1), by failing to test the line leak detectors at least once per year for performance and operational reliability and by failing to provide proper release detection for the piping associated with the USTs. Specifically, neither monthly monitoring nor the annual piping tightness test had been conducted. Additionally, Mr. Adalakun failed to conduct reconciliation of detailed inventory control records at least once each month sufficiently accurate to detect a

release which equals or exceeds the sum of 1.0 percent of the total substance flow through for the month plus 130 gallons.

- b. 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.
4. Mr. Adelakun received notice of the violations on or about September 10, 2006.
5. The Executive Director recognizes that Mr. Adelakun no longer owns or operates the Facility per the TCEQ PST Registration Database and that Billal, Inc. has registered as the owner and operator of the Facility as of June 1, 2006.
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 Martin Adelakun dba National Mini Mart" (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 Mr. Adelakun with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Adelakun received notice of the EDPRP.
8. More than 20 days have elapsed since Mr. Adelakun received notice of the EDPRP, provided by the Executive Director. Mr. Adelakun failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Adelakun' USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Adelakun failed to test the line leak detectors at least once per year for performance and operational reliability, failed to provide proper release detection for the piping associated with the USTs, and failed to conduct reconciliation of detailed inventory control records at least once each month sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow through

for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III), (b)(2)(A)(ii)(I), (b)(2)(A)(ii)(II), and 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a) and (c)(1).

3. As evidenced by Finding of Fact No. 3.b., Mr. Adalakun failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Mr. Adalakun with proper notice of the EDRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c).
5. As evidenced by Finding of Fact No. 8, Mr. Adalakun has failed to file an answer to the EDRP, failed to request a hearing, and failed to schedule a settlement conference, 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 Mr. Adalakun and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Adalakun for violations of the Texas Water Code within the Commission's jurisdiction; for violations of rules adopted under such statute; or for violations of orders or permits issued under such statute.
7. An administrative penalty in the amount of twenty four thousand six hundred dollars (\$24,600.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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. Mr. Adalakun is assessed an administrative penalty in the amount of twenty four thousand six hundred dollars (\$24,600.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Mr. Adalakun'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: Martin Adalakun dba National Mini Mart; Docket No.2006-1789-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 Mr. Adalakun. Mr. Adalakun 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 Mr. Adalakun shall be made in writing to the Executive Director. Extensions are not effective until Mr. Adalakun 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 Mr. Adalakun if the Executive Director determines that Mr. Adalakun 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 is the date this decision was rendered pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3).

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF SHAWN A. SLACK**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Shawn A. Slack. 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 Martin Adelakun dba National Mini Mart (the “EDPRP”) with the Office of the Chief Clerk on February 6, 2007.

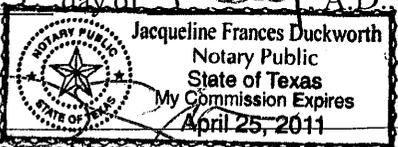
I sent the EDPRP to Mr. Adelakun at his last known address on February 6, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Adelakun received notice of the EDPRP. Mr. Adelakun failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

  
\_\_\_\_\_  
Shawn A. Slack  
Attorney  
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 5 day of May, A.D., 2008.

  
Notary Stamp