

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2003-1244-PST-E TCEQ ID: RN101570083 CASE NO.: 9903
RESPONDENT NAME: BALLPARK MART, INC. DBA BALLPARK MART

| | | |
|---|--|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |

| | | |
|--|---|--|
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |

SITE WHERE VIOLATION(S) OCCURRED: 2100 East Lamar Boulevard, Arlington, Tarrant County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: 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 December 15, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Anna M. Cox, Litigation Division, MC 175, (512) 239-0974
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Bryan Elliott, Air Enforcement Section, MC 149, (512) 239-6162

TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

Respondent: Mr. Dinesh Mehra, President, Ballpark Mart, Inc., 7445 Sweet Meadows Drive, Apt. No. 272, Fort Worth, Texas 76123

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|--|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Date(s) of Investigation Relating to this Case: October 1, 2002 and April 3, 2003</p> <p>Dates of NOEs Relating to this Case: November 8, 2002 and April 15, 2003</p> <p>Background Facts: This case was referred to the Litigation Division on January 18, 2008. The EDPRP was filed on April 24, 2008. The Respondent signed an Agreed Order on October 7, 2008.</p> <p>Current Compliance Status: As of July 18, 2005, the Respondent no longer operates the Facility.</p> <p>PST:</p> <p>1. Failed to have required UST records which are maintained at the Facility readily available for inspection by Commission personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2. Failed to conduct inventory control procedures [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii)].</p> | <p>Total Assessed: \$3,920</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$320/\$3,600</p> <p>The Respondent has paid \$320 of the administrative penalty. The remaining amount of \$3,600 of the administrative penalty shall be payable in 18 monthly payments of \$200 each.</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 checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Action Taken:</p> <p>The Executive Director recognizes that the Respondent no longer operates the Facility as of July 18, 2005.</p> |



| | |
|-------------------------------|--|
| DATES | |
| PCW 14-May-2007 | Screening 16-Oct-2003 |
| Priority Due 13-Feb-2004 | EPA Due |
| RESPONDENT INFORMATION | |
| Respondent | Ballpark Mart, Inc., dba Ballpark Mart |
| Respondent/Site ID No(s) | Petroleum Storage Tank Facility ID No. 0072638; Regulated Entity Reference No. RN101570083 |
| Facility/Site Region | 4 - Dallas/Fort Worth |
| Major/Minor Source | Minor |
| CASE INFORMATION | |
| Enf./Case ID No(s) | CCEDS Case No. 9903 |
| Docket No. | 2003-1244-PST-E |
| Case Priority | 3 |
| Enf. Coordinator | Bryan Elliott |
| Media Program(s) | Petroleum Storage Tank |
| Admin. Penalty \$ Limit | Minimum \$0 Maximum \$10,000 |
| No. Violations | 2 |
| Order Type | 1660 without deferral |
| EC's Team | Enforcement Team 3 |

Penalty Calculation Section

| | | |
|--|--|--------------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$3,500 |
| ADJUSTMENTS (+/-) TO SUBTOTAL 1 | | |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. | | |
| Compliance History | 12% Enhancement | Subtotals 2, 3 & 7 |
| Notes | There are two NOVs for same or similar violations, and one NOV for non similar violations. | + |
| Culpability | 0% Enhancement | Subtotal 4 |
| Notes | Respondent does not meet the culpability criteria. | + |
| Good Faith Effort to Comply | 0% Reduction | Subtotal 5 |
| Notes | The respondent is not yet in compliance. | + |
| Economic Benefit | 0% Enhancement* | Subtotal 6 |
| | \$9 Total EB Amounts | = |
| | \$200 Approx. Cost of Compliance | = |
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$3,920 |
| OTHER FACTORS AS JUSTICE MAY REQUIRE | Adjustment | \$0 |
| Notes | | = |
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$3,920 |
| DEFERRAL | 0% Reduction | Adjustment |
| Notes | Deferral not offered for non-expedited settlement. | = |
| PAYABLE PENALTY | | \$3,920 |

Screening Date 16-Oct-2003 **Docket Number** 2003-1244-PST-E **PCW**
Respondent Ballpark Mart, Inc., dba Ballpark Mart **Policy Revision 2 (09/02)**
Case ID No. CCEDS Case No. 9903 **PCW Revision 6/12/2003**
Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 0072638; Regulated Entity Reference No. RN101570083
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Bryan Elliott
Site Address Ballpark Mart, 2100 E. Lamar Boulevard, Arlington, Tarrant County.

Compliance History Worksheet

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

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 2 | 10% |
| | 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% |
| <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 16-Oct-03

Docket Number 2003-1244-PST-E

PCW

Respondent Ballpark Mart, Inc., dba Ballpark Mart

Policy Revision 2 (09/02)

Case ID No. CCEDS Case No. 9903

PCW Revision 6/12/2003

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 0072638; Regulated Entity Reference No. RN101570083

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bryan Elliott

Violation Number 1

Primary Rule Cite 30 Texas Admin. Code § 334.10(b)

Secondary Cite(s)

Violation Description

Respondent failed to have required UST records which are maintained at the facility readily available for inspection by the Commission personnel, as documented on investigation conducted on October 1, 2002.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | |

Percent

» Programmatic Matrix

| OR | Programmatic Matrix | | |
|----|---------------------|-------|-------|
| | Falsification | Major | Minor |
| | | x | |

Percent 10%

Matrix Notes

Respondent failed to meet 100% of the rule requirement.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

| | |
|--------------|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

Violation Base Penalty \$1,000

Events Notes

One single event is recommended based on the October 1, 2002 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$3

Violation Final Penalty total \$1,120

This Violation Final Assessed Penalty (adjusted for limits) \$1,120

Economic Benefit Worksheet

Respondent Ballpark Mart, Inc., dba Ballpark Mart
ID Number(s) CCEDS Case No. 9903
Media [Statute] Petroleum Storage Tank
Violation Number 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost <small>No commas or \$</small> | 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 | \$100 | 1-Oct-2002 | 3-Apr-2003 | 0.5 | \$3 | n/a | \$3 |
| 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 at 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/equip | | | | 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 \$3

| | | |
|--|--|---|
| Screening Date 16-Oct-03 | Docket Number 2003-1244-PST-E | PCW |
| Respondent Ballpark Mart, Inc., dba Ballpark Mart | | Policy Revision 2 (09/02) |
| Case ID No. CCEDS Case No. 9903 | | PCW Revision 6/12/2003 |
| Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 0072638; Regulated Entity Reference No. RN101570083 | | |
| Media [Statute] Petroleum Storage Tank | | |
| Enf. Coordinator Bryan Elliott | | |
| Violation Number | 2 | |
| Primary Rule Cite | 30 Texas Admin. Code § 334.50(d)(1)(B)(ii) | |
| Secondary Cite(s) | | |
| Violation Description | <p>The respondent failed to conduct inventory control procedures, specifically, 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% of the total substance flowthrough for the month plus 130 gallons, as documented on the investigation conducted on April 3, 2003.</p> | |
| | Base Penalty | \$10,000 |
| » Environmental, Property and Human Health Matrix | | |
| | Harm | |
| | Release | Major Moderate Minor |
| OR | Actual | <input type="text"/> <input type="text"/> <input type="text"/> |
| | Potential | <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| | Percent | <input type="text"/> 25% |
| » Programmatic Matrix | | |
| | Falsification | Major Moderate Minor |
| OR | <input type="text"/> | <input type="text"/> <input type="text"/> <input type="text"/> |
| | | Percent <input type="text"/> |
| Matrix Notes | <p>This violation could result in the release of pollutants which could exceed levels that are protective of human health and the environment.</p> | |
| | Adjustment | <input type="text"/> -\$7,500 |
| | Base Penalty Subtotal | \$2,500 |
| Violation Events | | |
| | Number of Violation Events | <input type="text"/> 1 |
| <i>mark only one; use small x</i> | 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 <input type="text"/> \$2,500 |
| Events Notes | <p>One single event is recommended to make penalty commensurate with the situation.</p> | |
| Economic Benefit (EB) for this violation | | Statutory Limit Test |
| | Estimated EB Amount (\$) <input type="text"/> \$7 | Violation Final Penalty total <input type="text"/> \$2,800 |
| | | This Violation Final Assessed Penalty (adjusted for limits) <input type="text"/> \$2,800 |

Economic Benefit Worksheet

Respondent Ballpark Mart, Inc., dba Ballpark Mart
ID Number(s) CCEDS Case No. 9903
Media [Statute] Petroleum Storage Tank
Violation Number 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Cost <small>No commas or \$</small> | 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) | \$100 | 28-Jan-2003 | 28-May-2004 | 1.3 | \$7 | n/a | \$7 |

Notes for DELAYED costs

Estimated cost to conduct reconciliation of inventory records.

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/equip | | | | 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 \$7

COMPLIANCE HISTORY

Customer/Respondent/Owner-Operator: CN600832638 Ballpark Mart, Inc. (Operator) Classification: Average
Regulated Entity/ID Nos.: RN101570083 LDS Shortstop, Petroleum Storage Tank Registration 0072638 Site Rating: 1.5
Location [physical address or description of location (street, highway, FM, etc.) including city or nearest city, and county]: 2100 E. Lamar Boulevard, Arlington, Tarrant County Repeat Violator: (y/n) n
TCEQ Region No. 4
Date Compliance History Prepared: 10/23/2003

Agency Decision Requiring Compliance History (mark one):

- the issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit
[X] enforcement
the use of announced investigations (Field Ops)
participation in innovative programs

Compliance Period: 10/23/98 - 10/23/03

TCEQ staff person to contact for additional information regarding this compliance history:

Name: A. Sunday Udoetok Phone: (512) 239 0739

Site Compliance History Components

- 1. Has the site been in existence and/or operation for the full five year compliance period? [] Yes [X] No [] Unk
2. Has there been a (known) change in ownership of the site during the compliance period? [X] Yes [] No [] Unk
3. If Yes, who is the current owner? B & D Venture, LLC
4. If Yes, who was/were the prior owner(s)? Ballpark Mart, Inc
5. When did the change(s) in ownership occur? 11/12/1999

Components (multimedia) for the Site during the portion of the five-year compliance history the site was owned by the person who is the subject of this compliance history:

- A. Final enforcement orders, court judgments, and consent decrees of the state of Texas and the federal government
1. Effective Date: N/A Type of Action:
Violation Citation 1: Classification:
Violation Description:
B. Any criminal convictions of the state of Texas and the federal government.
Conviction Date: N/A
Count 1:
C. Chronic excessive emissions events: None

D. The dates of investigations.

1. 11/12/2002
2. 06/04/2002
3. 08/29/2000
4. 01/28/2003
5. 06/05/2003

E. Written notices of violation (NOV)

1. Date: 08/24/2000 Self-reported? Yes No
Violation Citation 1: 30 TAC Chapter 115, SubChapter C 115.244(1) Classification: Moderate
Violation Description: Failure to comply.
2. Date: 11/08/2002 Self-reported? Yes No
Violation Citation 1: 30 TAC 334.10(b) Classification: Minor
Violation Description: Failure to have required UST records which are maintained readily accessible and available for inspection upon request by Commission personnel.
Violation Citation 2: 30 TAC 334.8(c)(5)(c) Classification: Minor
Violation Description: Failure to ensure that all underground storage tanks (USTs) are properly identified as listed on the facility's Underground Storage Tank Registration & Self-Certification Form by a legible tag, label, or marking that is permanently applied on or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube.
Violation Citation 3: 30 TAC 334.8(c)(5)(A)(iii) Classification: Minor
Violation Description: Failure to ensure that a valid, current TCEQ delivery certificate is posted at the facility, and is in a location that is clearly visible at all times.
3. Date: 03/10/2003 Self-reported? Yes No
Violation Citation 1: 30 TAC 334.50(b)(2)(A)(ii)(I) Classification: Minor
Violation Description: Failure to provide proper release detection for the pressurized piping associated with UST systems.
Violation Citation 2: 30 TAC 334.8(c)(5)(c) Classification: Minor
Violation Description: Failure to ensure that all underground storage tanks (USTs) are properly identified as listed on the facility's Underground Storage Tank Registration & Self-Certification Form by a legible tag, label, or marking that is permanently applied on or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube.
Violation Citation 3: 30 TAC 334.50(d)(1)(B)(ii) Classification: Minor
Violation Description: Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons.

F. Environmental audits.

1. Notice of Intent Date: N/A
Disclosure Date:
Violation Citation 1: Classification:
Violation Description:

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

State: N/A

Site Name:

Location:

Type of Action:

Effective Date:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BALLPARK MART, INC. DBA
BALLPARK MART
RN101570083**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2003-1244-PST-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ballpark Mart, Inc. dba Ballpark Mart ("Ballpark Mart") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Ballpark Mart, appear before the Commission and together stipulate that:

1. At the time of the violations, Ballpark Mart operated a convenience store with retail sales of gasoline located at 2100 East Lamar Boulevard, Arlington, Tarrant County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Ballpark Mart agree that the Commission has jurisdiction to enter this Agreed Order, and that Ballpark Mart is subject to the Commission's jurisdiction.
4. Ballpark Mart received notice of the violations alleged in Section II ("Allegations") on or about November 13, 2002 and April 20, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ballpark Mart of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand nine hundred twenty dollars (\$3,920.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). Ballpark Mart has paid three hundred twenty dollars (\$320.00) of the administrative penalty. The remaining amount of three thousand six hundred dollars (\$3,600.00) of the administrative penalty shall be payable in 18 monthly payments of two hundred dollars (\$200.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Ballpark Mart fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Ballpark Mart's failure to meet the payment schedule of this Agreed Order constitutes the failure by Ballpark Mart to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Ballpark Mart 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 Ballpark Mart no longer operates the Facility as of July 18, 2005.
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 Ballpark Mart 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

1. During an investigation conducted on October 1, 2002, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Ballpark Mart violated 30 TEX. ADMIN. CODE § 334.10(b) by failing to have required UST records which are maintained at the facility readily available for inspection by Commission personnel.

2. During an investigation conducted on April 3, 2003, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Ballpark Mart violated 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) by failing to conduct inventory control procedures. Specifically, 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% of the total substance flow through for the month plus 130 gallons was not conducted.
3. Ballpark Mart received notice of the violation in paragraph 1 on or about November 13, 2002.
4. Ballpark Mart received notice of the violation in paragraph 2 on or about April 20, 2003.

III. DENIALS

Ballpark Mart generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ballpark Mart pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Ballpark Mart's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Ballpark Mart, Inc. dba Ballpark Mart, Docket No. 2003-1244-PST-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon Ballpark Mart.
3. If Ballpark Mart fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ballpark Mart's failure to comply is not a violation of this Agreed Order. Ballpark Mart shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ballpark Mart shall notify the

Executive Director within seven days after Ballpark Mart becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Ballpark Mart shall be made in writing to the Executive Director. Extensions are not effective until Ballpark Mart receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Ballpark Mart 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.
6. 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Ballpark Mart, or three days after the date on which the Commission mails notice of the Order to Ballpark Mart, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]

For the Executive Director

11/7/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or Ballpark Mart's failure to timely pay the penalty amount, may result in:

- A negative impact on Ballpark Mart's compliance history;
- Greater scrutiny of any permit applications submitted by Ballpark Mart;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Ballpark Mart;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Ballpark Mart; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

Dinesh Mehra
Signature

9/7/08
Date

Dinesh Mehra
Name (Printed or typed)
Authorized representative of
Ballpark Mart, Inc. dba Ballpark Mart

President
Title