

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1443-PST-E **TCEQ ID:** RN102445491 **CASE NO.:** 36499

**RESPONDENT NAME:** Elvan Management Inc. dba Elvan's Granbury Chevron

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Elvan's Granbury Chevron, 407 West Pearl Street, Granbury, Hood County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on August 21, 2008, concerning a possible fuel leak. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 2, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Rafael Vascones, President/Director, Elvan Management Inc., 407 West Pearl Street, Granbury, Texas 76048  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> August 21, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> August 22, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> September 3, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to provide an amended underground storage tank ("UST") registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate current ownership of the UST system [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>2) Failure to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2006 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>3) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Facility received five deliveries of fuel without having a current delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>4) Failure to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every</p>	<p><b>Total Assessed:</b> \$6,498</p> <p><b>Total Deferred:</b> \$1,299  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$159 (remaining \$5,040 due in 35 monthly payments of \$144 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input 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 has implemented the following corrective measures at the Facility:</p> <p>a. The TCEQ DFW Regional Office received documentation verifying that the Respondent submitted a properly completed UST registration and self-certification form indicating the current ownership of the UST system and obtained a valid TCEQ fuel delivery certificate on September 4, 2008;</p> <p>b. As of September 17, 2008, the TCEQ DFW Regional Office received documentation verifying that all USTs are being monitored for releases;</p> <p>c. The TCEQ DFW Regional Office received documentation verifying that the Respondent successfully conducted the piping tightness test on September 9, 2008; and</p> <p>d. The TCEQ DFW Regional Office received documentation verifying that the Respondent began conducting reconciliation of inventory control records on September 17, 2008.</p>

<p>month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not being put into test mode monthly [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failure to provide release detection for the piping associated with the USTs [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>6) 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 [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p>		
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Additional ID No(s): PST No. 8960





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-Sep-2008			
	<b>PCW</b>	11-Sep-2008	<b>Screening</b>	9-Sep-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Elvan Management Inc. dba Elvan's Granbury Chevron
<b>Reg. Ent. Ref. No.</b>	RN102445491
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	36499	<b>No. of Violations</b>	3
<b>Docket No.</b>	2008-1443-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Judy Kluge
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$6,000

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History** 0.0% Enhancement **Subtotals 2, 3, & 7** \$0

**Notes** No adjustment due to compliance history.

**Culpability** No 0.0% Enhancement **Subtotal 4** \$0

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** \$600

**Economic Benefit** 0.0% Enhancement\* **Subtotal 6** \$0

Total EB Amounts	\$1,116
Approx. Cost of Compliance	\$2,600

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$5,400

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 20.3% **Adjustment** \$1,098

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended enhancement to capture the avoided cost of compliance associated with violation no. 3.

**Final Penalty Amount** \$6,498

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$6,498

**DEFERRAL** 20.0% Reduction **Adjustment** -\$1,299

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

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$5,199

**Screening Date** 9-Sep-2008

**Docket No.** 2008-1443-PST-E

**PCW**

**Respondent** Elvan Management Inc. dba Elvan's Granbury Chevron

Policy Revision 2 (September 2002)

**Case ID No.** 36499

PCW Revision, June 12, 2008

**Reg. Ent. Reference No.** RN102445491

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Judy Kluge

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were 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)** 0%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

No adjustment due to compliance history.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b> 9-Sep-2008	<b>Docket No.</b> 2008-1443-PST-E	<b>PCW</b>			
<b>Respondent</b> Elvan Management Inc. dba Elvan's Granbury Chevron	<small>Policy Revision 2 (September 2002)</small>				
<b>Case ID No.</b> 36499	<small>PCW Revision June 12, 2008</small>				
<b>Reg. Ent. Reference No.</b> RN102445491					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>	1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)				
<b>Violation Description</b>	Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate current ownership of the UST system. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2006.				
<b>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
		<b>Percent</b>	0%		
<b>&gt;&gt; Programmatic Matrix</b>					
		<b>Falsification</b>	Major	Moderate	Minor
		<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	10%		
<b>Matrix Notes</b>	100% of the rule requirement was not met.				
		<b>Adjustment</b>	\$9,000		
		\$1,000			
<b>Violation Events</b>					
<b>Number of Violation Events</b>		1		<b>Number of violation days</b>	
		705			
<small>mark only one with an x</small>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	x			
		<b>Violation Base Penalty</b>	\$1,000		
		One single event is recommended.			
<b>Good Faith Efforts to Comply</b>					
		10.0% Reduction		\$100	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>		<input type="text"/>		
Ordinary	<input type="text"/>		x		
N/A	<input type="text"/>		(mark with x)		
<b>Notes</b>	The Respondent came into compliance on September 4, 2008.				
		<b>Violation Subtotal</b>	\$900		
<b>Economic Benefit (EB) for this violation</b>					
		Statutory Limit Test			
<b>Estimated EB Amount</b>		\$10		<b>Violation Final Penalty Total</b>	
				\$1,083	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>			
		\$1,083			

## Economic Benefit Worksheet

**Respondent:** Elvan Management Inc. dba Elvan's Granbury Chevron  
**Case ID No.:** 36499  
**Reg. Ent. Reference No.:** RN102445491  
**Media:** 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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	31-Aug-2006	4-Sep-2008	2.01	\$10	n/a	\$10
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The delayed cost includes the estimated amount required to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days before the expiration date and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance	\$100	<b>TOTAL</b>	\$10
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<b>Screening Date</b> 9-Sep-2008	<b>Docket No.</b> 2008-1443-PST-E	<b>PCW</b>		
<b>Respondent</b> Elvan Management Inc. dba Elvan's Granbury Chevron	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36499	<small>PCW Revision June 12, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN102445491				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b> <input type="text" value="2"/>				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)"/>			
<b>Violation Description</b>	<input type="text" value="Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Facility received five deliveries of fuel without having a current delivery certificate."/>			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>
				<b>Percent</b> <input type="text" value="5%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>			
			<b>Adjustment</b>	<input type="text" value="\$9,500"/>
				<input type="text" value="\$500"/>
<b>Violation Events</b>				
Number of Violation Events <input type="text" value="5"/>		Number of violation days <input type="text" value="5"/>		
<small>mark only one with an x</small>	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="text" value="x"/>		
				<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
<input type="text" value="Five single events are recommended for accepting five deliveries of fuel."/>				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="10.0%"/>	Reduction	<input type="text" value="\$250"/>
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on September 4, 2008."/>			
				<b>Violation Subtotal</b> <input type="text" value="\$2,250"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
Estimated EB Amount <input type="text" value="\$0"/>		Violation Final Penalty Total <input type="text" value="\$2,708"/>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$2,708"/>

## Economic Benefit Worksheet

**Respondent** Elvan Management Inc. dba Elvan's Granbury Chevron  
**Case ID No.** 36499  
**Reg. Ent. Reference No.** RN102445491  
**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				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

<b>Screening Date</b> 9-Sep-2008	<b>Docket No.</b> 2008-1443-PST-E	<b>PCW</b>			
<b>Respondent</b> Elvan Management Inc. dba Elvan's Granbury Chevron		<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36499		<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN102445491					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>	3				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(a) and (c)(1)				
<b>Violation Description</b>	Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not being put into test mode monthly. Failed to provide release detection for the piping associated with the USTs. 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>Base Penalty</b>		\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	Harm			<b>Percent</b> <input type="text" value="25%"/>	
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	x	<input type="text"/>	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
Falsification			Major	Moderate	Minor
<input type="text"/>			<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>			<input type="text" value="0%"/>		
<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.				
<b>Adjustment</b>					\$7,500
					\$2,500
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="18"/>		<b>Number of violation days</b>
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	x			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
<b>Violation Base Penalty</b>					\$2,500
One monthly event is recommended based on documentation of the violation during the August 22, 2008 investigation to the September 9, 2008 screening date.					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="10.0%"/>	<b>Reduction:</b>		\$250
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	x			
N/A	<input type="text"/>	(mark with x)			
<b>Notes</b>	The Respondent came into compliance on September 17, 2008.				
<b>Violation Subtotal</b>					\$2,250
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$1,106"/>	<b>Violation Final Penalty Total</b>		<input type="text" value="\$2,708"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<input type="text" value="\$2,708"/>

## Economic Benefit Worksheet

**Respondent:** Elvan Management Inc. dba Elvan's Granbury Chevron  
**Case ID No.:** 36499  
**Reg. Ent. Reference No.:** RN102445491  
**Media:** Petroleum Storage Tank  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,500	22-Aug-2008	17-Sep-2008	0.07	\$0	\$7	\$7
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of monitoring all USTs for releases, to include monthly reconciliation of inventory control records. The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	22-Aug-2007	9-Sep-2008	1.97	\$98	\$1,000	\$1,098
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for piping tightness test. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$2,500

**TOTAL**

\$1,106

# Compliance History

Customer/Respondent/Owner-Operator: CN603400565 Elvan Management Inc. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN102445491 Elvan's Granbury Chevron Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 8960  
REGISTRATION  
Location: 407 W PEARL ST, GRANBURY, TX, 76048 Rating Date: 9/1/2008 Repeat Violator: NO  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: September 09, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: September 09, 2003 to September 09, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Judy Kluge Phone: (817) 588-5825

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Elvan Management Inc.
4. If Yes, who was/were the prior owner(s)? Lambert & Steward  
Lambert Oil Company, Inc.
5. When did the change(s) in ownership occur? 09/13/2006

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







administrative penalty and One Thousand Two Hundred Ninety-Nine Dollars (\$1,299) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Five Thousand Forty Dollars (\$5,040) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Forty-Four Dollars (\$144) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 the Respondent 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 the Respondent has implemented the following corrective measures at the Facility:
  - a. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent submitted a properly completed UST registration and self-certification form indicating the current ownership of the UST system and obtained a valid TCEQ fuel delivery certificate on September 4, 2008;
  - b. As of September 17, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that all USTs are being monitored for releases;
  - c. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent successfully conducted the piping tightness test on September 9, 2008; and
  - d. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent began conducting reconciliation of inventory control records on September 17, 2008.
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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.



12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on August 22, 2008. Specifically, the registration was not amended to indicate current ownership of the UST system.
2. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on August 22, 2008. Specifically, the delivery certificate expired on September 30, 2006.
3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on August 22, 2008. Specifically, the Facility received five deliveries of fuel without having a current delivery certificate.
4. Failed to ensure that all USTs are monitored in a manner which will detect a release 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), as documented during an investigation conducted on August 22, 2008. Specifically, the automatic tank gauge was not being put into test mode monthly.
5. Failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on August 22, 2008.
6. 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(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 22, 2008.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Elvan Management Inc. dba Elvan's Granbury Chevron, Docket No. 2008-1443-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 the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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.

THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF CHEMISTRY  
5708 SOUTH CAMPUS DRIVE  
CHICAGO, ILLINOIS 60637

RECEIVED  
JAN 15 1964  
CHEMISTRY DEPARTMENT  
UNIVERSITY OF CHICAGO

TO THE DIRECTOR OF THE DIVISION OF THE PHYSICAL SCIENCES  
UNIVERSITY OF CHICAGO

FROM THE DIRECTOR OF THE DIVISION OF THE PHYSICAL SCIENCES  
UNIVERSITY OF CHICAGO

RE: [Illegible]

[Illegible]

[Illegible]

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



Elvan Management Inc. dba Elvan's Granbury Chevron  
DOCKET NO. 2008-1443-PST-E  
Page 6

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

John Srdin  
\_\_\_\_\_  
For the Executive Director

11/30/2009  
\_\_\_\_\_  
Date

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

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

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

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]  
\_\_\_\_\_  
Signature

12/19/08  
\_\_\_\_\_  
Date

PAUL VASENES  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Elvan Management Inc. dba Elvan's Granbury Chevron

PRESIDENT  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

