

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.:** 2008-1730-PST-E **TCEQ ID:** RN100617943 **CASE NO.:** 36770  
**RESPONDENT NAME:** PRO MOBIL, INC. dba Pro Mobil

<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> Pro Mobil, 1050 North Coit Road, Richardson, Dallas 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 October 3, 2008, alleging that a nozzle was leaking gasoline. 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 April 27, 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. Hany Samir Youssef, President, PRO MOBIL, INC., 1050 North Coit Road, Richardson, Texas 75080  Mr. Joe Youssef, Vice President, PRO MOBIL, INC., 1050 North Coit Road, Richardson, Texas 75080  <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> October 3, 2008.</p> <p><b>Date of Investigation Relating to this Case:</b> October 9, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> October 28, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a complaint investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to ensure that all underground storage tanks ("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 gauging system was not being put into test mode at least once every month [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failure to maintain the interstitial space between the protected component and the secondary containment device free of any soil, backfill material, groundwater, or other substances, and inspect and test the protected component for electrical isolation. Specifically, all the product piping underneath the dispensers was observed to be in contact with the soil and exposed to groundwater [30 TEX. ADMIN. CODE § 334.49(b)(3)(B) and TEX. WATER CODE § 26.3475(d)].</p>	<p><b>Total Assessed:</b> \$8,750</p> <p><b>Total Deferred:</b> \$1,750  <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 to General Revenue:</b> \$7,000</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 checked="" type="checkbox"/> Yes <input 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 verified on October 21, 2008, that the automatic tank gauge was successfully conducting continuous statistical leak detection tests on all three USTs; and</p> <p>b. The TCEQ DFW Regional Office received documentation on February 9, 2009, verifying that the product piping underneath the dispensers had been properly protected from soil, groundwater, and other substances, and the protected components had been successfully tested for electrical isolation.</p>

Additional ID No(s):. PST No. 17689



## Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	3-Nov-2008	Screening	4-Nov-2008	EPA Due	
	PCW	6-Nov-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	PRO MOBIL, INC. dba Pro Mobil		
Reg. Ent. Ref. No.	RN100617943		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36770	No. of Violations	2
Docket No.	2008-1730-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

### Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

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

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts  Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 4-Nov-2008

Docket No. 2008-1730-PST-E

PCW

Respondent PRO MOBIL, INC. dba Pro Mobil

Policy Revision 2 (September 2002)

Case ID No. 36770

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100617943

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 NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	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 judgments 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

No adjustment due to compliance history.

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

<b>Screening Date</b> 4-Nov-2008	<b>Docket No.</b> 2008-1730-PST-E	<b>PCW</b>	
<b>Respondent</b> PRO MOBIL, INC. dba Pro Mobil	Policy Revision 2 (September 2002)		
<b>Case ID No.</b> 36770	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b> RN100617943			
<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 § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(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 gauging system was not being put into test mode at least once every month.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Major	Moderate	Minor
	Actual		
	Potential	x	
		<b>Percent</b>	50%
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major      Moderate      Minor			
Actual			
Potential			
		<b>Percent</b>	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>		\$5,000	
		\$5,000	
<b>Violation Events</b>			
<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	12
mark only one with an x	daily		
	weekly		
	monthly	x	
	quarterly		
	semiannual		
	annual		
	single event		
		<b>Violation Base Penalty</b>	\$5,000
One monthly event is recommended based on documentation of the violation during the October 9, 2008 investigation to the October 21, 2008 compliance date.			
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	\$1,250
		Before NOV      NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary	x		
N/A		(mark with x)	
<b>Notes</b>	The Respondent came into compliance on October 21, 2008.		
<b>Violation Subtotal</b>		\$3,750	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$2	<b>Violation Final Penalty Total</b>	\$3,750
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$3,750

## Economic Benefit Worksheet

**Respondent** PRO MOBIL, INC. dba Pro Mobil  
**Case ID No.** 36770  
**Reg. Ent. Reference No.** RN100617943  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$1,500	9-Oct-2008	21-Oct-2008	0.03	\$2	n/a	\$2

**Notes for DELAYED costs** The estimated cost of monitoring all USTs for releases. 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)						
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 \$1,500 **TOTAL** \$2

<p><b>Screening Date</b> 4-Nov-2008  <b>Respondent</b> PRO MOBIL, INC. dba Pro Mobil  <b>Case ID No.</b> 36770  <b>Reg. Ent. Reference No.</b> RN100617943  <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 § 334.49(b)(3)(B) and Tex. Water Code § 26.3475(d)"/>  <b>Violation Description</b> <input type="text" value="Failed to maintain the interstitial space between the protected component and the secondary containment device free of any soil, backfill material, groundwater, or other substances, and inspect and test the protected component for electrical isolation. Specifically, all the product piping underneath the dispensers was observed to be in contact with the soil and exposed to groundwater."/></p>	<p><b>Docket No.</b> 2008-1730-PST-E  <b>PCW</b>  <i>Policy Revision 2 (September 2002)</i>  <i>PCW Revision October 30, 2008</i></p>																				
<b>Base Penalty</b> <input type="text" value="\$10,000"/>																					
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OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><b>Release</b></td> <td colspan="2" style="text-align: center;"><b>Harm</b></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td></td> <td colspan="2"></td> <td style="text-align: right;"><b>Percent</b> <input type="text" value="50%"/></td> </tr> </table>	<b>Release</b>	<b>Harm</b>				Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	x	<input type="text"/>	<input type="text"/>				<b>Percent</b> <input type="text" value="50%"/>
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Number of Violation Events <input type="text" value="1"/>	<input type="text" value="26"/> Number of violation days																				
<i>mark only one with an x</i> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">weekly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<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> <input type="text" value="\$5,000"/>						
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<b>0.0% Reduction</b> <input type="text" value="\$0"/>																					
	Before NOV    NOV to EDPRP/Settlement Offer																				
Extraordinary	<input type="text"/>																				
Ordinary	<input type="text"/>																				
N/A	x    (mark with x)																				
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on February 9, 2009, after the initial proposed agreed order mailout date of December 12, 2008. Therefore, the Respondent does not meet the good faith effort criteria for this violation."/>																				
<b>Violation Subtotal</b> <input type="text" value="\$5,000"/>																					
<b>Economic Benefit (EB) for this violation</b>																					
<b>Statutory Limit Test</b>																					
<b>Estimated EB Amount</b> <input type="text" value="\$8"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$5,000"/>																				
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$5,000"/>																					

## Economic Benefit Worksheet

**Respondent** PRO MOBIL, INC. dba Pro Mobil  
**Case ID No.** 36770  
**Reg. Ent. Reference No.** RN100617943  
**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
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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)	\$500	9-Oct-2008	9-Feb-2009	0.34	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to maintain the interstitial space between the protected component and the secondary containment device free of any soil, backfill material, groundwater, or other substances. The date required is the date of the investigation 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 \$500

TOTAL \$8

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602733230 PRO MOBIL, INC. Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN100617943 Pro Mobil Classification: AVERAGE Site Rating: 3.01  
BY DEFAULT  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 17689  
REGISTRATION  
Location: 1050 N COIT RD, RICHARDSON, TX, 75080 Rating Date: 9/1/2008 Repeat Violator: NO  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: November 03, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: November 03, 2003 to November 03, 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? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
PRO MOBIL, INC. DBA PRO MOBIL	§	
RN100617943	§	ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-1730-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding PRO MOBIL, INC. dba Pro Mobil ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 1050 North Coit Road in Richardson, Dallas County, Texas (the "Facility").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 2, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Seven Hundred Fifty Dollars (\$8,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Dollars (\$7,000) of the administrative penalty and One Thousand Seven Hundred Fifty Dollars (\$1,750) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and 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 as implemented the following corrective measures at the Facility:
  - a. The TCEQ Dallas/Fort Worth Regional Office verified on October 21, 2008, that the automatic tank gauge was successfully conducting continuous statistical leak detection tests on all three USTs; and
  - b. The TCEQ Dallas/Fort Worth Regional Office received documentation on February 9, 2009, verifying that the product piping underneath the dispensers had been properly protected from soil, groundwater, and other substances, and the protected components had been successfully tested for electrical isolation.
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 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 October 9, 2008. Specifically, the automatic tank gauging system was not being put into test mode at least once every month.
2. Failed to maintain the interstitial space between the protected component and the secondary containment device free of any soil, backfill material, groundwater, or other substances, and inspect and test the protected component for electrical isolation, in violation of 30 TEX. ADMIN.

CODE § 334.49(b)(3)(B) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on October 9, 2008. Specifically, all the product piping underneath the dispensers was observed to be in contact with the soil and exposed to groundwater.

### 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: PRO MOBIL, INC. dba Pro Mobil, Docket No. 2008-1730-PST-E" to:

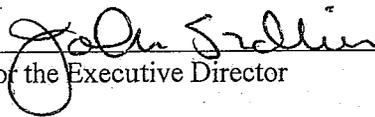
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

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. 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.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to 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.

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

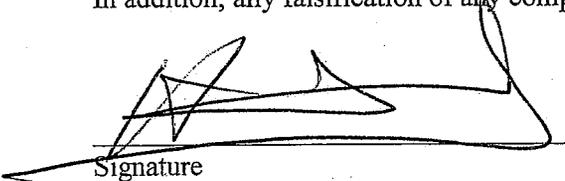
\_\_\_\_\_  
Date 4/17/2009

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 2.18.09

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
PRO MOBIL, INC. dba Pro Mobil

\_\_\_\_\_  
Title U.P.

**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.