

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0019-PST-E TCEQ ID: RN101382018 CASE NO.: 36975

RESPONDENT NAME: AMBICA CORPORATION dba Pecan Food 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 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>SITE WHERE VIOLATION(S) OCCURRED: Pecan Food Mart, 2101 South 1st Street, Austin, Travis County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Elvia Maske, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0789; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Mohammad Ovias, Operator/Manager, Pecan Food Mart, 2101 South 1st Street, Austin, Texas 78704 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 30, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 26, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to monitor underground storage tanks ("USTs") for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not put into test mode monthly [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failure to ensure that all spill and overflow prevention devices are maintained in good operating condition. Specifically, during the investigation it was noted that all the spill buckets were full of debris and were not being properly maintained [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p>	<p>Total Assessed: \$2,625</p> <p>Total Deferred: \$525 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$128 (remaining \$1,972 due in 17 monthly payments of \$116 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 Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Implemented a release detection method for all USTs at the Facility on November 19, 2008; and</p> <p>b. Removed debris from all the spill buckets and implemented inspection and supervising procedures for proper maintenance of the spill and overflow equipment on November 19, 2008.</p>

Additional ID No(s): 27721



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Dec-2008	Screening	5-Jan-2009	EPA Due	
	PCW	5-Jan-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	AMBICA CORPORATION dba Pecan Food Mart		
Reg. Ent. Ref. No.	RN101382018		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36975	No. of Violations	2
Docket No.	2009-0019-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Elvia Maske
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 6
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 5-Jan-2009

Docket No. 2009-0019-PST-E

PCW

Respondent AMBICA CORPORATION dba Pecan Food Mart

Policy Revision 2 (September 2002)

Case ID No. 36975

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101382018

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

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 <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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%

Screening Date 5-Jan-2009	Docket No. 2009-0019-PST-E	PCW
Respondent AMBICA CORPORATION dba Pecan Food Mart		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 36975		<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No. RN101382018		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Elvia Maske		
Violation Number	1	
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)	
Violation Description	Failed to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not put into test mode monthly.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	Potential	x	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input style="width:50px;" type="text" value="25%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
					Percent <input style="width:50px;" type="text" value="0%"/>

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	x
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty

One quarterly event is recommended based on documentation of the violation during the September 30, 2008 investigation to the November 19, 2008 compliance date.

Good Faith Efforts to Comply Reduction

		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	x	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input type="checkbox"/>	(mark with x)	

Notes The Respondent achieved compliance on November 19, 2008.

Violation Subtotal

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input style="width:50px;" type="text" value="\$10"/>	Violation Final Penalty Total <input style="width:50px;" type="text" value="\$1,875"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width:50px;" type="text" value="\$1,875"/>	

Economic Benefit Worksheet

Respondent AMBICA CORPORATION dba Pecan Food Mart
Case ID No. 36975
Reg. Ent. Reference No. RN101382018
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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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)	\$1,500	30-Sep-2008	19-Nov-2008	0.14	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost of monitoring all USTs for releases. Date required is the investigation date and 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

\$10

Screening Date 5-Jan-2009	Docket No. 2009-0019-PST-E	PCW			
Respondent AMBICA CORPORATION dba Pecan Food Mart		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36975		<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101382018					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Elvia Maske					
Violation Number	2				
Rule Cite(s)	30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)				
Violation Description	Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, during the investigation it was noted that all the spill buckets were full of debris and were not being properly maintained.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	x	<input type="text"/>		
Percent		10%			
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent		0%			
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment		\$9,000			
					\$1,000
Violation Events					
Number of Violation Events		1		Number of violation days	
		51			
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	x			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
Violation Base Penalty		\$1,000			
One quarterly event is recommended based on documentation of the violation during the September 30, 2008 investigation to the November 19, 2008 compliance date.					
Good Faith Efforts to Comply		25.0% Reduction		\$250	
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>			
Extraordinary		<input type="text"/>			
Ordinary		x			
N/A		(mark with x)			
Notes	The Respondent achieved compliance on November 19, 2008.				
Violation Subtotal		\$750			
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$1		Violation Final Penalty Total	
				\$750	
This violation Final Assessed Penalty (adjusted for limits)				\$750	

Economic Benefit Worksheet

Respondent AMBICA CORPORATION dba Pecan Food Mart
Case ID No. 36975
Reg. Ent. Reference No. RN101382018
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
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)	\$200	30-Sep-2008	19-Nov-2008	0.14	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to remove debris from the spill buckets and maintain the spill and overfill protection equipment in proper working condition. Date required is the investigation date and 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

\$200

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN600733281 AMBICA CORPORATION Classification: AVERAGE Rating: 3.01
Regulated Entity: RN101382018 Pecan Food Mart Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 27721
REGISTRATION
Location: 2101 S 1ST ST, AUSTIN, TX, 78704
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: December 12, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 12, 2003 to December 12, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Elvia Maske Phone: (512) 239 - 0789

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? AMBICA CORPORATION
4. If Yes, who was/were the prior owner(s)? Rabia Memon Enterprises Inc.
5. When did the change(s) in ownership occur? 09/14/2004
6. Rating Date: 9/1/2008 Repeat Violator: NO

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.)
11/25/2008 (705405)
- 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
ENFORCEMENT ACTION
CONCERNING
AMBICA CORPORATION DBA
PECAN FOOD MART
RN101382018

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0019-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 AMBICA CORPORATION dba Pecan Food Mart ("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 2101 South 1st Street in Austin, Travis 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 December 1, 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 Two Thousand Six Hundred Twenty-Five Dollars (\$2,625) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Twenty-Eight Dollars (\$128) of the

administrative penalty and Five Hundred Twenty-Five Dollars (\$525) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of One Thousand Nine Hundred Seventy-Two Dollars (1,972) of the administrative penalty shall be payable in 17 monthly payments of One Hundred Sixteen Dollars (\$116) 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. Implemented a release detection method for all USTs at the Facility on November 19, 2008; and
 - b. Removed debris from all the spill buckets and implemented inspection and supervising procedures for proper maintenance of the spill and overfill equipment on November 19, 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 monitor USTs for releases at a frequency of at least once per 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 September 30, 2008. Specifically, the automatic tank gauge was not put into test mode monthly.
2. Failed to ensure that all spill and overflow prevention devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on September 30, 2008. Specifically, during the investigation it was noted that all the spill buckets were full of debris and were not being properly maintained.

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: AMBICA CORPORATION dba Pecan Food Mart, Docket No. 2009-0019-PST-E" to:

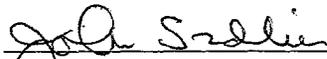
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

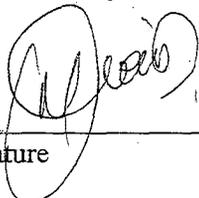
Date 4/2/2009

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 1/31/09

Mohammad Ovais

Name (Printed or typed)

Title Manager

Authorized Representative of
AMBICA CORPORATION dba Pecan Food Mart

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.

