

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0986-PST-E TCEQ ID: RN102896404 CASE NO.: 35949**  
**RESPONDENT NAME: MARTHA CHAPMAN AKA MARTHA K. CHAPMAN**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 24802 Ima Ruth Parkway, San Antonio, Bexar County

**TYPE OF OPERATION:** Former convenience store with inactive USTs

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired June 1, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney:** Ms. Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-0736  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  
**TCEQ Enforcement Coordinator:** Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563  
**TCEQ Regional Contact:** Mr. Henry Karnei, Jr., San Antonio Regional Office, MC R-13, (210) 403-4010  
**Respondent:** Ms. Martha Chapman, 135 W. French Pl., Apt. 204, San Antonio, Texas 78212  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 17, 2008</p> <p><b>Date of NOE Relating to this Case:</b> May 8, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed November 3, 2008, and re-filed for service on February 20, 2009. Respondent received the EDPRP on February 21, 2009, as evidenced by the return receipt "green card." Respondent failed to file an answer, request a hearing, or schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance. The Respondent does not have a current delivery certificate.</p> <p><b>PST:</b></p> <p>1. Failed to register underground storage tanks ("USTs") with the Commission [30 TEX. ADMIN. CODE § 334.7(a)(1)(A)].</p> <p>2. Failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p>	<p><b>Total Assessed:</b> \$16,000</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$16,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</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>Ordering Provision(s):</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, permanently remove the UST system from service; and</li> <li>2. Within 45 days, submit a properly completed UST registration form.</li> <li>3. Within 60 days, submit written certification demonstrating compliance.</li> </ol>

# Compliance History

Customer/Respondent/Owner-Operator: CN601489719 CHAPMAN, MARTHA Classification: AVERAGE Rating: 4.50  
Regulated Entity: RN102896404 SILVER FOX Classification: AVERAGE Site Rating: 4.50

ID Number(s):

Location: 24802 IMA RUTH PKWY, SAN ANTONIO, TX, 78257

Rating Date: September 01 07 Repeat  
Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: May 21, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 21, 2003 to May 21, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: John Shelton Phone: (512) 239-2563

## 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.)  
1 07/22/2003 (145492)  
2 05/12/2008 (656526)
  - 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



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

DATES	Assigned	19-May-2008	Screening	27-May-2008	EPA Due	
	PCW	6-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Martha Chapman
Reg. Ent. Ref. No.	RN102896404
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35949	No. of Violations	2
Docket No.	2008-0986-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Shelton
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> <input type="text" value="\$16,000"/>
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History	0.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> <input type="text" value="\$0"/>
Notes	<input type="text" value="The Respondent has not received any NOVs or Orders at this site in the past five years."/>
Culpability	No <input type="text" value="0.0% Enhancement"/> <b>Subtotal 4</b> <input type="text" value="\$0"/>
Notes	<input type="text" value="The Respondent does not meet the culpability criteria."/>
Good Faith Effort to Comply Total Adjustments	<b>Subtotal 5</b> <input type="text" value="\$0"/>
Economic Benefit	0.0% Enhancement* <b>Subtotal 6</b> <input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$3,231"/>
Approx. Cost of Compliance	<input type="text" value="\$10,100"/>
	*Capped at the Total EB \$ Amount
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> <input type="text" value="\$16,000"/>
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<input type="text" value="0.0%"/> <b>Adjustment</b> <input type="text" value="\$0"/>
Reduces or enhances the Final Subtotal by the indicated percentage.	
Notes	<input type="text"/>
	<b>Final Penalty Amount</b> <input type="text" value="\$16,000"/>
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> <input type="text" value="\$16,000"/>
<b>DEFERRAL</b>	<input type="text" value="0.0%"/> Reduction <b>Adjustment</b> <input type="text" value="\$0"/>
Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)	
Notes	<input type="text" value="Deferral not offered for non-expedited settlement."/>
<b>PAYABLE PENALTY</b>	<input type="text" value="\$16,000"/>

Screening Date 27-May-2008

Docket No. 2008-0986-PST-E

PCW

Respondent Martha Chapman

Policy Revision 2 (September 2002)

Case ID No. 35949

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102896404

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

**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%

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

The Respondent has not received any NOVs or Orders at this site in the past five years.

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

<p><b>Screening Date</b> 27-May-2008  <b>Respondent</b> Martha Chapman  <b>Case ID No.</b> 35949  <b>Reg. Ent. Reference No.</b> RN102896404  <b>Media [Statute]</b> Petroleum Storage Tank  <b>Enf. Coordinator</b> John Shelton</p>	<p><b>Docket No.</b> 2008-0986-PST-E  <b>PCW</b>  <i>Policy Revision 2 (September 2002)</i>  <i>PCW Revision June 12, 2008</i></p>																							
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	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>																				
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>																				
					<b>Percent</b> <input type="text" value="10%"/>																			
<p><input type="text" value="\$1,000"/></p>																								
<p><b>Violation Events</b></p> <p><b>Number of Violation Events</b> <input type="text" value="1"/>      <input type="text" value="71"/> <b>Number of violation days</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td rowspan="5" style="width:10%; text-align: center; vertical-align: middle;"><i>mark only one with an x</i></td> <td style="width:15%; text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></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></td> <td style="text-align: center;">single event</td> <td style="text-align: center;">x</td> </tr> </table> <p style="text-align: right;"><b>Violation Base Penalty</b> <input type="text" value="\$1,000"/></p> <p style="border: 1px solid black; padding: 5px; text-align: center;">One single event is recommended based on documentation of the violation during the March 17, 2008 investigation.</p>		<i>mark only one with an x</i>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>		single event	x									
<i>mark only one with an x</i>	daily		<input type="text"/>																					
	monthly		<input type="text"/>																					
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	<b>N/A</b>	x	(mark with x)																					
<p><b>Economic Benefit (EB) for this violation</b>      <b>Statutory Limit Test</b></p> <p><b>Estimated EB Amount</b> <input type="text" value="\$5"/>      <b>Violation Final Penalty Total</b> <input type="text" value="\$1,000"/></p> <p style="text-align: right;"><b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$1,000"/></p>																								

## Economic Benefit Worksheet

**Respondent** Martha Chapman  
**Case ID No.** 35949  
**Reg. Ent. Reference No.** RN102896404  
**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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$100	17-Mar-2008	28-Feb-2009	0.95	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to submit a properly completed UST registration form. The date Required is the investigation date and the Final Date is the estimated 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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$5

<b>Screening Date</b> 27-May-2008	<b>Docket No.</b> 2008-0986-PST-E	<b>PCW</b>												
<b>Respondent</b> Martha Chapman		<small>Policy Revision 2 (September 23, 2002)</small>												
<b>Case ID No.</b> 35949		<small>PCW Revision June 12, 2008</small>												
<b>Reg. Ent. Reference No.</b> RN102896404														
<b>Media [Statute]</b> Petroleum Storage Tank														
<b>Enf. Coordinator</b> John Shelton														
<b>Violation Number</b> <input type="text" value="2"/>														
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.47(a)(2)													
<b>Violation Description</b>	Failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.													
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>												
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>														
<b>OR</b>	<b>Release</b>	<b>Harm</b>												
		Major      Moderate      Minor												
	Actual	<input type="text"/>												
	Potential	x	<b>Percent</b> <input type="text" value="25%"/>											
<b>&gt;&gt; Programmatic Matrix</b>														
	Falsification	Major      Moderate      Minor												
	<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>	<input type="text" value="\$7,500"/>												
		<input type="text" value="\$2,500"/>												
<b>Violation Events</b>														
	<b>Number of Violation Events</b> <input type="text" value="6"/>	<input type="text" value="71"/> <b>Number of violation days</b>												
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daily	<input type="text"/>													
monthly	x													
quarterly	<input type="text"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
	Six monthly events (three months per UST) are recommended based on documentation of the violation during the March 17, 2008 investigation to the May 27, 2008 screening date.													
<b>Good Faith Efforts to Comply</b>			<input type="text" value="0.0%"/> <b>Reduction</b> <input type="text" value="\$0"/>											
	<small>Before NOV      NOV to EDRP/Settlement Offer</small>													
Extraordinary	<input type="text"/>	<input type="text"/>												
Ordinary	<input type="text"/>	<input type="text"/>												
N/A	x	<small>(mark with x)</small>												
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.													
	<b>Violation Subtotal</b>	<input type="text" value="\$15,000"/>												
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>											
	<b>Estimated EB Amount</b> <input type="text" value="\$3,226"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$15,000"/>												
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$15,000"/>													

### Economic Benefit Worksheet

Respondent Martha Chapman  
 Case ID No. 35949  
 Reg. Ent. Reference No. RN102896404  
 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
<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)	\$10,000	18-Sep-2002	28-Feb-2009	6.45	\$3,226	n/a	\$3,226

Notes for DELAYED costs

Estimated cost to permanently remove the UST system from service. The Date Required is the date when the Respondent was required to upgrade the UST system and the Final Date is the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$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

\$10,000

TOTAL

\$3,226

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MARTHA CHAPMAN AKA  
MARTHA K. CHAPMAN;  
RN102896404

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**DEFAULT ORDER**  
**DOCKET NO. 2008-0986-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Martha Chapman aka Martha K. Chapman ("Ms. Chapman").

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

**FINDINGS OF FACT**

1. Ms. Chapman owns a former retail gasoline station located at 24802 Ima Ruth Parkway, San Antonio, Bexar County, Texas (the "Facility").
2. Ms. Chapman's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Ms. Chapman's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During an investigation conducted on March 17, 2008, a TCEQ San Antonio Regional Office investigator documented that Ms. Chapman:
  - a. failed to register USTs with the Commission;
  - b. failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

4. Ms. Chapman received notice of the violations on or about May 13, 2008.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Martha Chapman aka Martha K. Chapman" (the "EDPRP") in the TCEQ Chief Clerk's office on February 20, 2009.
6. By letter dated February 20, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Chapman with notice of the EDPRP. According to the return receipt "green card," Ms. Chapman received notice of the EDPRP on February 21, 2009, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Ms. Chapman received notice of the EDPRP, provided by the Executive Director. Ms. Chapman failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Chapman is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 7 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Ms. Chapman failed to register USTs with the Commission, in violation of 30 TEX. ADMIN CODE § 334.7(a)(1)(A).
3. As evidenced by Finding of Fact No. 3.b., Ms. Chapman failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN CODE § 334.47(a)(2).
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Ms. Chapman with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, Ms. Chapman has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Ms. Chapman and assess the penalty recommended by the Executive Director.

7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Ms. Chapman for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of sixteen thousand dollars (\$16,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Ms. Chapman is assessed an administrative penalty in the amount of sixteen thousand dollars (\$16,000.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Ms. Chapman's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Martha Chapman aka Martha K. Chapman; Docket No. 2008-0986-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. Ms. Chapman shall undertake the following technical requirements:

- a. Within 30 days after the effective date of the Commission Order, Ms. Chapman shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
- b. Within 45 days after the effective date of the Commission Order, Ms. Chapman shall submit a properly completed UST registration form to the TCEQ, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting & Remediation Support Division, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of the Commission Order, Ms. Chapman shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.a and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Ms. Chapman shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Henry Karnei, Jr., Waste Section Manager  
Texas Commission on Environmental Quality  
San Antonio Regional Office  
14250 Judson Road  
San Antonio, Texas 78233-4480

3. All relief not expressly granted in this Order is denied.
4. If Ms. Chapman fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Chapman's failure to comply is not a violation of this Order. Ms. Chapman shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Chapman shall notify the Executive Director within seven days after Ms. Chapman becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Chapman shall be made in writing to the Executive Director. Extensions are not effective until Ms. Chapman receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Ms. Chapman if the Executive Director determines that Ms. Chapman has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

