

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0348-PST-E **TCEQ ID:** RN101762219 **CASE NO.:** 37293

**RESPONDENT NAME:** Hieu Vo dba Gulfway Foodmart

<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> Gulfway Foodmart, 100 Gulfway Drive, Port Arthur, Jefferson 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> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 13, 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. Hieu Vo, Owner, Gulfway Foodmart, 3200 Canal Avenue, Groves, Texas 77619  <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 type="checkbox"/> Complaint  <input checked="" 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> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 6, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> March 6, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to maintain the required underground storage tank ("UST") records and make them immediately available for the inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failure to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>3) Failure to provide proper release detection for the UST system by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4) Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failure to ensure that a legible tag, label, or marking with the tank number is</p>	<p><b>Total Assessed:</b> \$12,269</p> <p><b>Total Deferred:</b> \$2,453  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$296 (remaining \$9,520 due in 35 monthly payments of \$272 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Submitted the required UST records to the TCEQ Beaumont Regional Office on February 18, 2009;</p> <p>b. Began conducting proper inventory control procedures for all USTs on February 24, 2009;</p> <p>c. Implemented statistical inventory reconciliation and inventory control as a release detection method for the UST system on February 24, 2009;</p> <p>d. Properly marked the USTs according to the UST registration and self-certification form on February 24, 2009;</p> <p>e. Began maintaining all Stage II records at the Station on February 24, 2009;</p> <p>f. Completed the Stage II representative and in-house employee awareness training on March 20, 2009;</p> <p>g. Conducted the required annual and triennial testing of the Stage II equipment on March 25, 2009; and</p> <p>h. Sealed all groundwater monitoring wells on March 25, 2009.</p>

<p>permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>6) Failure to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>7) Failure to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>8) Failure to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification. Specifically, the Stage II annual and triennial system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>9) Failure to ensure that all monitoring wells and observation wells are properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, accidental depositing of unauthorized substances, and designed to divert surface runoff away from the well. Specifically, three groundwater monitoring wells were not properly sealed [30 TEX. ADMIN. CODE § 334.46(g)(1)(G) and (H)].</p>		
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Additional ID No(s): PST No. 8294





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	9-Mar-2009	Screening	11-Mar-2009	EPA Due	
	PCW	11-Mar-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Hieu Vo dba Gulfway Foodmart		
Reg. Ent. Ref. No.	RN101762219		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37293	No. of Violations	8
Docket No.	2009-0348-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000
		EC's Team	Enforcement Team 6

## 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**  **Subtotals 2, 3, & 7**

Notes

**Culpability**   **Subtotal 4**

Notes

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

**Economic Benefit**  **Subtotal 6**

Total EB Amounts	\$603
Approx. Cost of Compliance	\$4,590

\*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** 11-Mar-2009

**Docket No.** 2009-0348-PST-E

**PCW**

**Respondent** Hieu Vo dba Gulfway Foodmart

Policy Revision 2 (September 2002)

**Case ID No.** 37293

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101762219

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Judy Kluge

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	1	2%
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%
<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**

Enhancement for one prior dissimilar NOV.

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

**Screening Date** 11-Mar-2009 **Docket No.** 2009-0348-PST-E **PCW**  
**Respondent** Hieu Vo dba Gulfway Foodmart *Policy Revision 2 (September 2002)*  
**Case ID No.** 37293 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101762219  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Judy Kluge  
**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.10(b)  
**Violation Description** Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel.  
**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

**>> Programmatic Matrix**

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			10%

Matrix Notes: 100% of the rule requirement was not met.  
**Adjustment** \$9,000

**Violation Events**

Number of Violation Events: 1      12 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$1,000

One single event is recommended based on documentation of the violation during the February 6, 2009 investigation.

**Good Faith Efforts to Comply** 25.0% Reduction **\$250**

	25.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes: The Respondent came into compliance on February 18, 2009.

**Violation Subtotal** \$750

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$1	Violation Final Penalty Total \$809
This violation Final Assessed Penalty (adjusted for limits) \$809	

## Economic Benefit Worksheet

**Respondent** Hieu Vo dba Gulfway Foodmart  
**Case ID No.** 37293  
**Reg. Ent. Reference No.** RN101762219  
**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
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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	\$500	6-Feb-2009	18-Feb-2009	0.03	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to maintain all UST records. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$500	<b>TOTAL</b>	\$1
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<b>Screening Date</b> 11-Mar-2009	<b>Docket No.</b> 2009-0348-PST-E	<b>PCW</b>		
<b>Respondent</b> Hieu Vo dba Gulfway Foodmart		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37293		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101762219				
<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 § 334.48(c)"/>			
<b>Violation Description</b>	<input type="text" value="Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel."/>			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="25%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment will or could be exposed to 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>				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="18"/>
	<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b>
		weekly	<input type="text"/>	
		monthly	<input type="text" value="x"/>	
		quarterly	<input type="text"/>	
		semiannual	<input type="text"/>	
		annual	<input type="text"/>	
		single event	<input type="text"/>	
	<input type="text" value="One monthly event is recommended based on documentation of the violation during the February 6, 2009 investigation to the February 24, 2009 compliance date."/>			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>	<input type="text" value="\$625"/>
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text" value="x"/>	<input type="text"/>	
	N/A	<input type="text"/>	<small>(mark with x)</small>	
	<b>Notes</b>	<input type="text" value="The Respondent came into compliance on February 24, 2009."/>		
		<b>Violation Subtotal</b>	<input type="text" value="\$1,875"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
	Estimated EB Amount	<input type="text" value="\$1"/>	Violation Final Penalty Total	<input type="text" value="\$2,022"/>
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,022"/>		

## Economic Benefit Worksheet

**Respondent** Hieu Vo dba Gulfway Foodmart  
**Case ID No.** 37293  
**Reg. Ent. Reference No.** RN101762219  
**Media** Petroleum Storage Tank  
**Violation No.** 2

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

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

**Delayed Costs**

	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	\$500	6-Feb-2009	24-Feb-2009	0.05	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to conduct inventory control for all USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation and final date is the date of compliance.

**Avoided Costs**

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

	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** \$500

**TOTAL** \$1

<b>Screening Date</b> 11-Mar-2009	<b>Docket No.</b> 2009-0348-PST-E	<b>PCW</b>		
<b>Respondent</b> Hieu Vo dba Gulfway Foodmart	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 37293	<i>PCW Revision October 30, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101762219				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b> 3				
<b>Rule Cite(s)</b> 30 Tex. Admin. Code § 334.50(d)(1)(B)(ii) and 334.50(d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)				
<b>Violation Description</b>	Failed to provide proper release detection for the UST system by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	x	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	25%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<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>	\$7,500	
		\$2,500		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		1	<b>Number of violation days</b>	
		18		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	x		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
		<b>Violation Base Penalty</b>		
		\$2,500		
One monthly event is recommended based on documentation of the violation during the February 6, 2009 investigation to the February 24, 2009 compliance date.				
<b>Good Faith Efforts to Comply</b>		25.0%	<b>Reduction</b>	
		\$625		
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	x	<input type="checkbox"/>		
N/A	<input type="checkbox"/>	(mark with x)		
<b>Notes</b>	The Respondent came into compliance on February 24, 2009.			
		<b>Violation Subtotal</b>	\$1,875	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>		\$4	<b>Violation Final Penalty Total</b>	
		\$2,022		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			\$2,022	

## Economic Benefit Worksheet

**Respondent** Hieu Vo dba Gulfway Foodmart  
**Case ID No.** 37293  
**Reg. Ent. Reference No.** RN101762219  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	6-Feb-2009	24-Feb-2009	0.05	\$4	n/a	\$4

**Notes for DELAYED costs**  
 The estimated cost of monitoring all USTs for releases, including recording daily inventory volume measurement, and monthly reconciliation of inventory control records. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs**

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

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 \$4

<b>Screening Date</b> 11-Mar-2009	<b>Docket No.</b> 2009-0348-PST-E	<b>PCW</b>	
<b>Respondent</b> Hieu Vo dba Gulfway Foodmart		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 37293		<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101762219			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b>	4		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(C)		
<b>Violation Description</b>	Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.		
	<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	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	0%
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major	Moderate
	<input type="checkbox"/>	x	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	10%
<b>Matrix Notes</b>	100% of the rule requirement was not met.		
	<b>Adjustment</b>	\$9,000	
		\$1,000	
<b>Violation Events</b>			
	Number of Violation Events	1	Number of violation days
		18	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> \$1,000
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	x	
	One single event is recommended based on documentation of the violation during the February 6, 2009 investigation.		
<b>Good Faith Efforts to Comply</b>			
	25.0% Reduction	\$250	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	x	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent came into compliance on February 24, 2009.		
	<b>Violation Subtotal</b>	\$750	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
Estimated EB Amount	\$0	Violation Final Penalty Total	\$809
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$809

## Economic Benefit Worksheet

**Respondent** Hieu Vo dba Gulfway Foodmart  
**Case ID No.** 37293  
**Reg. Ent. Reference No.** RN101762219  
**Media** Petroleum Storage Tank  
**Violation No.** 4

<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
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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)	\$100	6-Feb-2009	24-Feb-2009	0.05	\$0	n/a	\$0

**Notes for DELAYED costs**      The estimated cost includes the amount required to permanently affix a metal label to each UST fill tube. 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**

<b>Approx. Cost of Compliance</b>	\$100	<b>TOTAL</b>	\$0
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<b>Screening Date</b> 11-Mar-2009	<b>Docket No.</b> 2009-0348-PST-E	<b>PCW</b>															
<b>Respondent</b> Hieu Vo dba Gulfway Foodmart		<small>Policy Revision 2 (September 2002)</small>															
<b>Case ID No.</b> 37293		<small>PCW Revision October 30, 2008</small>															
<b>Reg. Ent. Reference No.</b> RN101762219																	
<b>Media [Statute]</b> Petroleum Storage Tank																	
<b>Enf. Coordinator</b> Judy Kluge																	
<b>Violation Number</b> <input type="text" value="5"/>																	
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health &amp; Safety Code § 382.085(b)"/>																
<b>Violation Description</b>	<input type="text" value="Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel."/>																
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																	
OR	<b>Release</b>	<b>Harm</b>															
		Major      Moderate      Minor															
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>													
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>													
			<b>Percent</b> <input type="text" value="0%"/>														
<b>&gt;&gt; Programmatic Matrix</b>																	
	<b>Falsification</b>	Major      Moderate      Minor															
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>														
			<b>Percent</b> <input type="text" value="10%"/>														
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>																
	<b>Adjustment</b>	<input type="text" value="\$9,000"/>															
		<input type="text" value="\$1,000"/>															
<b>Violation Events</b>																	
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>														
		<input type="text" value="18"/>															
	<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text" value="x"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text" value="x"/>	<b>Violation Base Penalty</b>
daily	<input type="text"/>																
weekly	<input type="text"/>																
monthly	<input type="text"/>																
quarterly	<input type="text"/>																
semiannual	<input type="text"/>																
annual	<input type="text"/>																
single event	<input type="text" value="x"/>																
			<input type="text" value="\$1,000"/>														
	<input type="text" value="One single event is recommended based on documentation of the violation during the February 6, 2009 investigation."/>																
<b>Good Faith Efforts to Comply</b>																	
	<b>25.0% Reduction</b>	<input type="text" value="\$250"/>															
		<small>Before NOV      NOV to EDPRP/Settlement Offer</small>															
	<b>Extraordinary</b>	<input type="text"/>	<input type="text"/>														
	<b>Ordinary</b>	<input type="text" value="x"/>	<input type="text"/>														
	<b>N/A</b>	<input type="text"/>	<small>(mark with x)</small>														
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on February 24, 2009."/>																
	<b>Violation Subtotal</b>	<input type="text" value="\$750"/>															
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>															
	<b>Estimated EB Amount</b>	<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>														
			<input type="text" value="\$809"/>														
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$809"/>														

## Economic Benefit Worksheet

**Respondent** Hieu Vo dba Gulfway Foodmart  
**Case ID No.** 37293  
**Reg. Ent. Reference No.** RN101762219  
**Media** Petroleum Storage Tank  
**Violation No.** 5

<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
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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	\$500	6-Feb-2009	24-Feb-2009	0.05	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated cost to establish a record keeping system at the Station. 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**

<b>Approx. Cost of Compliance</b>	\$500	<b>TOTAL</b>	\$1
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<b>Screening Date</b> 11-Mar-2009	<b>Docket No.</b> 2009-0348-PST-E	<b>PCW</b>	
<b>Respondent</b> Hieu Vo dba Gulfway Foodmart	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37293	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101762219			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b>	6		
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>	Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Release	Major	Moderate
	Actual	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		<b>Percent</b>	10%
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major	Moderate
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	0%
<b>Matrix Notes</b>	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.		
<b>Adjustment</b>		\$9,000	
		\$1,000	
<b>Violation Events</b>			
	Number of Violation Events	1	33
		Number of violation days	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> \$1,000
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
One quarterly event is recommended based on documentation of the violation during the February 6, 2009 investigation to the March 11, 2009 screening date.			
<b>Good Faith Efforts to Comply</b>		10.0% Reduction	\$100
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
N/A	(mark with x)		
<b>Notes</b>	The Respondent came into compliance on March 20, 2009.		
<b>Violation Subtotal</b>		\$900	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$3	<b>Violation Final Penalty Total</b>	\$966
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$966

## Economic Benefit Worksheet

**Respondent** Hieu Vo dba Gulfway Foodmart  
**Case ID No.** 37293  
**Reg. Ent. Reference No.** RN101762219  
**Media** Petroleum Storage Tank  
**Violation No.** 6

<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**

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	\$500	6-Feb-2009	20-Mar-2009	0.12	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of training a Stage II Station representative and in-house employee Stage II training. 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 \$500

TOTAL \$3

<b>Screening Date</b> 11-Mar-2009	<b>Docket No.</b> 2009-0348-PST-E	<b>PCW</b>														
<b>Respondent</b> Hieu Vo dba Gulfway Foodmart		<small>Policy Revision 2 (September 2002)</small>														
<b>Case ID No.</b> 37293		<small>PCW Revision October 30, 2008</small>														
<b>Reg. Ent. Reference No.</b> RN101762219																
<b>Media [Statute]</b> Petroleum Storage Tank																
<b>Enf. Coordinator</b> Judy Kluge																
<b>Violation Number</b> <input type="text" value="7"/>																
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)															
<b>Violation Description</b>	Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.															
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>														
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																
	<b>Harm</b>															
	Major      Moderate      Minor															
<b>OR</b>	Actual	<input type="text"/>														
	Potential	<input type="text" value="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>																
	<input type="text" value="1"/>	<input type="text" value="1095"/> Number of violation days														
	<table border="1" style="border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text" value="x"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text" value="x"/>	<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text" value="x"/>															
<small>mark only one with an x</small>																
	One single event is recommended for the three-year period preceding the February 6, 2009 investigation.															
<b>Good Faith Efforts to Comply</b>																
	<b>10.0% Reduction</b>	<input type="text" value="\$250"/>														
	Before NOV      NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="text"/>	<input type="text"/>														
Ordinary	<input type="text"/>	<input type="text" value="x"/>														
N/A	<input type="text"/>	(mark with x)														
<b>Notes</b>	The Respondent came into compliance on March 25, 2009.															
	<b>Violation Subtotal</b>	<input type="text" value="\$2,250"/>														
<b>Economic Benefit (EB) for this violation</b>																
	<b>Statutory Limit Test</b>															
<b>Estimated EB Amount</b>	<input type="text" value="\$589"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,416"/>														
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$2,416"/>															

## Economic Benefit Worksheet

**Respondent** Hieu Vo dba Gulfway Foodmart  
**Case ID No.** 37293  
**Reg. Ent. Reference No.** RN101762219  
**Media** Petroleum Storage Tank  
**Violation No.** 7

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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**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]	\$490	6-Feb-2006	25-Mar-2009	4.05	\$99	\$490	\$589
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual invoiced cost for annual testing to verify proper operation of the Stage II equipment. The date required is three years prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance \$490

TOTAL \$589

<b>Screening Date</b> 11-Mar-2009	<b>Docket No.</b> 2009-0348-PST-E	<b>PCW</b>	
<b>Respondent</b> Hieu Vo dba Gulfway Foodmart		<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 37293		<small>PCW Revision October 30, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101762219			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b> 8			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.46(g)(1)(G) and (H)		
<b>Violation Description</b>	Failed to ensure that all monitoring wells and observation wells are properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, accidental depositing of unauthorized substances, and designed to divert surface runoff away from the well. Specifically, three groundwater monitoring wells were not properly sealed.		
	<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	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	x	<input type="checkbox"/>	25%
<b>&gt;&gt; Programmatic Matrix</b>			
	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Percent <input type="checkbox"/> 0%
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.		
	<b>Adjustment</b>	\$7,500	
		<b>Subtotal</b>	\$2,500
<b>Violation Events</b>			
	<input type="checkbox"/> 1	<input type="checkbox"/> 33	Number of violation days
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> <input type="checkbox"/> \$2,500
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	x	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
	One quarterly event is recommended based on documentation of the violation during the February 6, 2009 investigation to the March 11, 2009 screening date.		
<b>Good Faith Efforts to Comply</b>			
	<input type="checkbox"/> 10.0%	<input type="checkbox"/> Reduction	<b>Subtotal</b> <input type="checkbox"/> \$250
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	x	
N/A	<input type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent came into compliance on March 25, 2009.		
		<b>Violation Subtotal</b>	\$2,250
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="checkbox"/> \$3	<b>Violation Final Penalty Total</b>	<input type="checkbox"/> \$2,416
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="checkbox"/> \$2,416

## Economic Benefit Worksheet

**Respondent** Hieu Vo dba Gulfway Foodmart  
**Case ID No.** 37293  
**Reg. Ent. Reference No.** RN101762219  
**Media** Petroleum Storage Tank  
**Violation No.** 8

<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)	\$500	6-Feb-2009	25-Mar-2009	0.13	\$3	n/a	\$3

**Notes for DELAYED costs** Estimated cost to ensure that all wells are properly capped, labeled, and secured to prevent unauthorized access or tampering. The date required is the investigation and the final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b> 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 TOTAL

\$500	\$3
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN603450446 Vo, Hieu Classification: AVERAGE Rating: 0.33  
Regulated Entity: RN101762219 Gulfway Foodmart Classification: AVERAGE Site Rating: 0.33  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 8294  
REGISTRATION  
Location: 100 GULFWAY DR, PORT ARTHUR, TX, 77640  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: March 11, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: March 11, 2004 to March 11, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Judy Kluge Phone: 817-588-5825

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Hieu Vo
4. If Yes, who was/were the prior owner(s)? Steinhagen Oil Company, Inc.
5. When did the change(s) in ownership occur? 03/31/2006
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 05/04/2005 (373666)
  - 2 06/16/2005 (392963)
  - 3 03/06/2009 (735739)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/04/2005 (373666)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)  
Description: Failure to amend or update the registration information to show the current status (inactive/temporarily out of service) of the petroleum storage tank (PST) system.
- 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  
HIEU VO DBA GULFWAY  
FOODMART  
RN101762219

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0348-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 Hieu Vo dba Gulfway Foodmart ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and 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 100 Gulfway Drive in Port Arthur, Jefferson County, Texas (the "Station").
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. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 March 11, 2009.
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 Twelve Thousand Two Hundred Sixty-Nine Dollars (\$12,269) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Ninety-Six Dollars (\$296) of the administrative penalty and Two Thousand Four Hundred Fifty-Three Dollars (\$2,453) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Five Hundred Twenty Dollars (\$9,520) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Seventy-Two Dollars (\$272) 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 Station:
  - a. Submitted the required UST records to the TCEQ Beaumont Regional Office on February 18, 2009;
  - b. Began conducting proper inventory control procedures for all USTs on February 24, 2009;
  - c. Implemented statistical inventory reconciliation and inventory control as a release detection method for the UST system on February 24, 2009;
  - d. Properly marked the USTs according to the UST registration and self-certification form on February 24, 2009;
  - e. Began maintaining all Stage II records at the Station on February 24, 2009;
  - f. Completed the Stage II representative and in-house employee awareness training on March 20, 2009;
  - g. Conducted the required annual and triennial testing of the Stage II equipment on March 25, 2009; and

- h. Sealed all groundwater monitoring wells on March 25, 2009.
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 Station, the Respondent is alleged to have:

1. Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on February 6, 2009.
2. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on February 6, 2009.
3. Failed to provide proper release detection for the UST system by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on February 6, 2009.
4. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on February 6, 2009.
5. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on February 6, 2009.
6. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and

TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 6, 2009.

7. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 6, 2009.
8. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 6, 2009. Specifically, the Stage II annual and triennial system compliance testing had not been conducted.
9. Failed to ensure that all monitoring wells and observation wells are properly capped, labeled, and secured or locked to prevent unauthorized access, tampering, accidental depositing of unauthorized substances, and designed to divert surface runoff away from the well, in violation of 30 TEX. ADMIN. CODE § 334.46(g)(1)(G) and (H), as documented during an investigation conducted on February 6, 2009. Specifically, three groundwater monitoring wells were not properly sealed.

### 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: Hieu Vo dba Gulfway Foodmart, Docket No. 2009-0348-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 Station 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

John S. Miller  
\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date 6/23/2009

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.

Hieu Vo  
\_\_\_\_\_  
Signature

5-11-09  
\_\_\_\_\_  
Date

Hieu Vo  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Hieu Vo dba Gulfway Foodmart

Owner  
\_\_\_\_\_  
Title

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