

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1778-PST-E TCEQ ID: RN103002887 CASE NO.: 34897**  
**RESPONDENT NAME: LUDIVINIA GRANADOS DBA VENICIAS BAR**

<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> 6918 W. Expressway 83, Mission, Hidalgo County</p> <p><b>TYPE OF OPERATION:</b> nightclub</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 expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired June 22, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  <b>TCEQ Enforcement Coordinator:</b> Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577  <b>TCEQ Regional Contact:</b> Mr. Jaime Garza, Harlingen Regional Office, MC R-15, (956) 430-6010  <b>Respondent:</b> Ms. Ludivinia Granados, Owner, Venicias Bar, 312 Erdahl Ave., Mission, Texas 78572  <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></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> October 15, 2007</p> <p><b>Date of NOE Relating to this Case:</b> October 23, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed February 5, 2008. The agreed order was signed April 14, 2009.</p> <p><b>Current Compliance Status:</b> Not yet in compliance. The Respondent does not have a delivery certificate.</p> <p><b>PST:</b></p> <p>1. 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>2. Failed to provide amended registration regarding USTs within 30 days from the date of occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>	<p><b>Total Assessed:</b> \$3,675</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 Paid/Due to General Revenue:</b> \$175/\$3,500</p> <p>The Respondent paid \$175 of the administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 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>Technical Requirements</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days:</p> <p>a. Permanently remove the UST system from service; and</p> <p>b. Submit an amended registration to reflect the current operational status of the UST system.</p> <p>2. Within 45 days, submit written certification demonstrating compliance with these Ordering Provisions.</p>



# Penalty Calculation Worksheet (PCW)

DATES	Assigned	29-Oct-2007	Screening	1-Nov-2007	EPA Due	
	PCW	1-Nov-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Ludivinia Granados dba Venicias Bar
Reg. Ent. Ref. No.	RN103002887
Facility/Site Region	15- Harlingen
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34897	No. of Violations	2	
Docket No.	2007-1778-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya	
Multi-Media		EC's Team	Enforcement Team 6	
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="\$3,500"/>

<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
<b>Compliance History</b>	<b>Subtotals 2, 3, &amp; 7</b> <input type="text" value="\$175"/>

Notes: Enhancement for one NOV with same or similar violations.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<input type="text" value="\$0"/>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	<input type="text" value="\$0"/>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes: The Respondent does not meet the good faith criteria.

	<b>Subtotal 6</b>	<input type="text" value="\$0"/>
Total EB Amounts	<input type="text" value="\$4,281"/>	0% Enhancement*
Approx. Cost of Compliance	<input type="text" value="\$9,100"/>	*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<input type="text" value="\$3,675"/>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	<input type="text" value="\$0"/>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	<input type="text" value="\$3,675"/>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<input type="text" value="\$3,675"/>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	<input type="text" value="\$0"/>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<input type="text" value="\$3,675"/>
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Screening Date 1-Nov-2007

Docket No. 2007-1778-PST-E

PCW

Respondent Ludivinia Granados dba Venicias Bar

Policy Revision 2 (September 2002)

Case ID No. 34897

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN103002887

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

**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)	1	5%
	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) 5%

>> 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

Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 1-Nov-2007

Docket No. 2007-1778-PST-E

PCW

Respondent Ludivinia Granados dba Venicias Bar

Policy Revision 2 (September 2002)

Case ID No. 34897

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN103002887

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 334.47(a)(2)

Violation Description

Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events

Number of violation days

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

Violation Base Penalty

One monthly event is recommended from the record review date of October 15, 2007 to the November 1, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

## Economic Benefit Worksheet

**Respondent** Ludivinia Granados dba Venicias Bar  
**Case ID No.** 34897  
**Reg. Ent. Reference No.** RN103002887  
**Media:** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$9,000	22-Dec-1998	22-Jun-2008	9.5	\$4,278	n/a	\$4,278

Notes for DELAYED costs

Estimated cost to permanently remove two USTs with a combined capacity of 12,000 gallons at \$0.75 per gallon. The Date Required is the date when the Respondent was required to upgrade the USTs and the Final Date is based on the estimated compliance date.

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$9,000

TOTAL

\$4,278

Screening Date 1-Nov-2007

Docket No. 2007-1778-PST-E

PCW

Respondent Ludivinia Granados dba Venicias Bar

Policy Revision 2 (September 2002)

Case ID No. 34897

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN103002887

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description Failed to provide amended registration regarding USTs within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the current out of service status of the USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 17

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the record review date of October 15, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

## Economic Benefit Worksheet

**Respondent:** Ludivinia Granados dba Venicias Bar  
**Case ID No.:** 34897  
**Reg. Ent. Reference No.:** RN103002887  
**Media:** Petroleum Storage Tank  
**Violation No.:** 2

<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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	15-Oct-2007	19-Jun-2008	0.7	\$3	n/a	\$3

Notes for DELAYED costs

Approximate cost to update UST registration. Date Required is the date of record review. Final Date is the estimated date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$3

# Compliance History

Customer/Respondent/Owner-Operator:	CN603105735	GRANADOS, LUDIVINIA	Classification: AVERAGE	Rating: 2.67
Regulated Entity:	RN103002887	Venecias Bar	Classification: AVERAGE	Site Rating: 2.67
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	46056
Location:	0.7 miles W from the intersection of Goodwin Rd & Expressway 83, Mission, TX		Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	October 31, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 31, 2002 to October 31, 2007			

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

Name: Rajesh Acharya Phone: (512) 239-0577

### 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 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.)
 

N/A	1	11/03/2006	(514940)
	2	07/11/2007	(566854)
	3	10/23/2007	(597913)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	11/03/2006	(514940)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.49(c)(4)[G]		
Description:	Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection with three to six months after installation and at a subsequent frequency of at least once every three years.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 334, SubChapter C 334.49(c)(2)(C)		
Description:	Failure to check at least once the rectifier once every 60 days for impressed current systems is operating.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 334, SubChapter A 334.7(d)(3)		
Description:	Failure to amend, update or change registration information.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.54(c)(1)		
Description:	Failure to perform the temporary removal of a UST in compliance with 30 TAC 334.54(b) and (c).		
- 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  
LUDIVINIA GRANADOS DBA  
VENICIAS BAR;  
RN103002887

§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-1778-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ludivinia Granados dba Venicias Bar ("Ms. Granados") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Granados, appear before the Commission and together stipulate that:

1. Ms. Granados owns and operates a nightclub located at 6918 W. Expressway 83, Mission, Hidalgo County, Texas (the "Site").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Ms. Granados agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Granados is subject to the Commission's jurisdiction.
4. Ms. Granados received notice of the violations alleged in Section II ("Allegations") on or about October 28, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Granados of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of three thousand six hundred seventy-five dollars (\$3,675.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). Ms. Granados paid one hundred seventy-five dollars (\$175.00) of the administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred dollars (\$100.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Ms. Granados fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Ms. Granados' failure to meet the payment schedule of this Agreed Order constitutes the failure by Ms. Granados to timely and satisfactorily comply with all of 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 Ms. Granados agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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 Ms. Granados has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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

During an investigation conducted on October 15, 2007, a TCEQ Harlingen Regional Office investigator documented that Ms. Granados violated:

- a. 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing 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. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to provide amended registration regarding USTs within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the current out of service status of the USTs.

### III. DENIALS

Ms. Granados generally denies each allegation in Section II (“Allegations”).

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ms. Granados pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Ms. Granados’ 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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Ludivinia Granados dba Venicias Bar, Docket No. 2007-1778-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. Granados shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, Ms. Granados shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
  - b. Within 30 days after the effective date of this Agreed Order, Ms. Granados shall submit an amended registration to reflect the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting and Remediation Support Division, MC 138  
Texas Commission on Environmental Quality

P.O. Box 13087  
Austin, Texas 78711-30870

- c. Within 45 days after the effective date of this Order, Ms. Granados shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 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. Granados shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

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

and

David A. Ramirez, Air/Water/Waste Section Manager  
Texas Commission on Environmental Quality  
Harlingen Regional Office  
1804 West Jefferson Ave.  
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon Ms. Granados. Ms. Granados is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Ms. Granados 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,

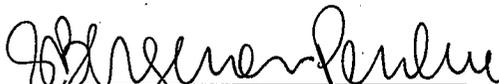
riot, or other catastrophe, Ms. Granados's failure to comply is not a violation of this Agreed Order. Ms. Granados shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Granados shall notify the Executive Director within seven days after Ms. Granados 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 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 Ms. Granados shall be made in writing to the Executive Director. Extensions are not effective until Ms. Granados receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Ms. Granados 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Ms. Granados, or three days after the date on which the Commission mails notice of the Order to Ms. Granados, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

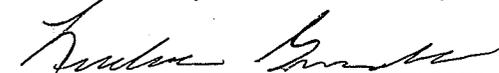
7/10/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Ms. Granados' compliance history;
- Greater scrutiny of any permit applications submitted by Ms. Granados;
- 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 against Ms. Granados;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Ms. Granados; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

04-14-09  
Date

Ludivina Granados  
\_\_\_\_\_  
Name (Printed or typed)

OWNER  
\_\_\_\_\_  
Title