

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2009-0196-PST-E    **TCEQ ID:** RN100223858    **CASE NO.:** 37151  
**RESPONDENT NAME:** TENET HOSPITALS LIMITED dba Providence Memorial Hospital

<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> Providence Memorial Hospital, 2001 North Oregon Street, El Paso, El Paso County</p> <p><b>TYPE OF OPERATION:</b> Hospital with backup diesel-powered electric generators supplied by two underground storage tanks ("USTs")</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 20, 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. Marco Marquez, Director of Factory Management, TENET HOSPITALS LIMITED, 2001 North Oregon Street, El Paso, Texas 79902  Mr. John A. Grah, Chief Operating Officer, TENET HOSPITALS LIMITED, 2001 North Oregon Street, El Paso, Texas 79902  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

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**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> December 12 and December 23, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> February 6, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired May 31, 2008 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>2) Failure to make available to a common carrier, a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondent accepted three fuel deliveries without having a current delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>3) Failure to report a release to the TCEQ within 24 hours of discovery. Specifically, the Respondent did not report the diesel fuel release [30 TEX. ADMIN. CODE §§ 334.72 and 334.76].</p> <p>4) Failure to immediately clean up a spill or overfill of a petroleum substance from a UST system and begin corrective action. Specifically, during a followup investigation the investigator documented an unauthorized discharge of diesel fuel</p>	<p><b>Total Assessed:</b> \$4,230</p> <p><b>Total Deferred:</b> \$846  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,384</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 Facility:</p> <p>a. The TCEQ El Paso Regional Office received documentation verifying that the Respondent submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on December 18, 2008; and</p> <p>b. The TCEQ El Paso Regional Office received documentation verifying that the impacted soil was remediated and properly transported to an off-site authorized facility on January 9, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, establish and implement a process for reporting releases; and</p> <p>b. Within 15 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

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from an aboveground piping system which impacted an area approximately 3 feet by 5 feet in size [30 TEX. ADMIN. CODE § 334.75(a)].		
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Additional ID No(s): PST No. 16840





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

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

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	TENET HOSPITALS LIMITED dba Providence Memorial Hospital	
<b>Reg. Ent. Ref. No.</b>	RN100223858	
<b>Facility/Site Region</b>	6-El Paso	<b>Major/Minor Source</b> Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	37151	<b>No. of Violations</b>	4
<b>Docket No.</b>	2009-0196-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Judy Kluge
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* **\$4,000**

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

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

**Compliance History** **22.0%** Enhancement *Subtotals 2, 3, & 7* **\$880**

**Notes** Enhancement for one prior 1660 order and one dissimilar NOV.

**Culpability** **No** **0.0%** Enhancement *Subtotal 4* **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** *Subtotal 5* **\$750**

**Economic Benefit** **0.0%** Enhancement\* *Subtotal 6* **\$0**

Total EB Amounts **\$115**  
 Approx. Cost of Compliance **\$5,080**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$4,130**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **2.4%** *Adjustment* **\$100**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended enhancement to capture the avoided cost of compliance associated with violation no. 3.

*Final Penalty Amount* **\$4,230**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$4,230**

**DEFERRAL** **20.0%** Reduction *Adjustment* **-\$846**

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

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$3,384**

**Screening Date** 11-Feb-2009 **Docket No.** 2009-0196-PST-E  
**Respondent** TENET HOSPITALS LIMITED dba Providence Memorial  
**Case ID No.** 37151  
**Reg. Ent. Reference No.** RN100223858  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Judy Kluge

**PCW**

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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%
<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)** 22%

>> **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 prior 1660 order and one dissimilar NOV.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 22%

<b>Screening Date</b> 11-Feb-2009	<b>Docket No.</b> 2009-0196-PST-E	<b>PCW</b>		
<b>Respondent</b> TENET HOSPITALS LIMITED dba Providence Memorial Hospital		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37151		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN100223858				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b>	<input type="text" value="1"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)"/>			
<b>Violation Description</b>	<input type="text" value="Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired May 31, 2008."/>			
<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"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<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"/>	<input type="text" value="202"/> <b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>	
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
<input type="text" value="One single event is recommended based on documentation of the violation during the December 12, 2008 investigation."/>				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/> <b>Reduction</b>	<input type="text" value="\$250"/>	
	Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	x	<input type="text"/>		
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on December 18, 2008."/>			
		<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="\$3"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$993"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$993"/>		

### Economic Benefit Worksheet

**Respondent** TENET HOSPITALS LIMITED dba Providence Memorial Hospital  
**Case ID No.** 37151  
**Reg. Ent. Reference No.** RN100223858  
**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**

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	1-May-2008	18-Dec-2008	0.63	\$3	n/a	\$3

**Notes for DELAYED costs**

The delayed cost includes the estimated amount required to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days before the expiration date of May 31, 2008. The final date is the compliance date

**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**

\$100

**TOTAL**

\$3

<b>Screening Date</b> 11-Feb-2009		<b>Docket No.</b> 2009-0196-PST-E		<b>PCW</b>
<b>Respondent</b> TENET HOSPITALS LIMITED dba Providence Memorial Hospital				<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 37151				<small>PCW Revision October 30, 2008</small>
<b>Reg. Ent. Reference No.</b> RN100223858				
<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 § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)"/>		
<b>Violation Description</b>		<input type="text" value="Failed to make available to a common carrier, a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondent accepted three fuel deliveries without having a current delivery certificate."/>		
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	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>		
		<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
		<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>
		<input type="text"/>	<input type="text"/>	<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"/>	<input type="text" value="3"/>	<b>Number of violation days</b>
<small>mark only one with an x</small>	daily	<input type="text"/>	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
	weekly	<input type="text"/>	<input type="text"/>	
	monthly	<input type="text"/>	<input type="text"/>	
	quarterly	<input type="text"/>	<input type="text"/>	
	semiannual	<input type="text"/>	<input type="text"/>	
	annual	<input type="text"/>	<input type="text"/>	
	single event	<input type="text" value="x"/>	<input type="text"/>	
<input type="text" value="One single event is recommended."/>				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>	<input type="text" value="\$250"/>
		<small>Before NOV</small>	<small>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 December 18, 2008."/>		
<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="\$0"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$993"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$993"/>

### Economic Benefit Worksheet

**Respondent** TENET HOSPITALS LIMITED dba Providence Memorial Hospital  
**Case ID No.** 37151  
**Reg. Ent. Reference No.** RN100223858  
**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
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

Economic Benefit is included in violation no. 1.

**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 \$0

**TOTAL** \$0

<b>Screening Date</b> 11-Feb-2009		<b>Docket No.</b> 2009-0196-PST-E		<b>PCW</b>	
<b>Respondent</b> TENET HOSPITALS LIMITED dba Providence Memorial Hospital			<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37151			<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN100223858					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>		<input type="text" value="3"/>			
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code §§ 334.72 and 334.76"/>			
<b>Violation Description</b>		<input type="text" value="Failed to report a release to the TCEQ within 24 hours of discovery. Specifically, the Respondent did not report the diesel fuel release."/>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	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>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
		<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<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"/>	<input type="text" value="50"/>	<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>	<input type="text"/>		
	weekly	<input type="text"/>	<input type="text"/>		
	monthly	<input type="text"/>	<input type="text"/>		
	quarterly	<input type="text"/>	<input type="text"/>		
	semiannual	<input type="text"/>	<input type="text"/>		
	annual	<input type="text"/>	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>	<input type="text"/>		
				<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>
<input type="text" value="One single event is recommended."/>					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="0.0%"/>	<b>Reduction</b>		<input type="text" value="\$0"/>
		<small>Before NOV    NOV to EDPRP/Settlement Offer</small>			
<b>Extraordinary</b>		<input type="text"/>	<input type="text"/>		
<b>Ordinary</b>		<input type="text"/>	<input type="text"/>		
<b>N/A</b>		<input checked="" type="text" value="x"/>	<small>(mark with x)</small>		
<b>Notes</b>		<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
<b>Violation Subtotal</b>				<input type="text" value="\$1,000"/>	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$100"/>	<b>Violation Final Penalty Total</b>		<input type="text" value="\$1,250"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$1,250"/>	

## Economic Benefit Worksheet

**Respondent** TENET HOSPITALS LIMITED dba Providence Memorial Hospital

**Case ID No.** 37151

**Reg. Ent. Reference No.** RN100223858

**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)				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]	\$100	22-Dec-2008	23-Dec-2008	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a release. The date required is the day prior to the investigation. The final date is the investigation date.

Approx. Cost of Compliance	\$100	<b>TOTAL</b>	\$100
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<b>Screening Date</b> 11-Feb-2009	<b>Docket No.</b> 2009-0196-PST-E	<b>PCW</b>	
<b>Respondent</b> TENET HOSPITALS LIMITED dba Providence Memorial Hospital	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37151	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN100223858			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b> <input type="text" value="4"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.75(a)		
<b>Violation Description</b>	Failed to immediately clean up a spill or overfill of a petroleum substance from a UST system and begin corrective action. Specifically, the investigator documented an unauthorized discharge of diesel fuel from an aboveground piping system which impacted an area approximately 3 feet by 5 feet in size.		
<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" value="x"/>
	Potential	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
	Falsification	Major	Moderate    Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	<input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
<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"/>	<input type="text" value="18"/>
		<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text" value="x"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
		<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>
One quarterly event is recommended based on documentation of the violation during the December 23, 2008 followup investigation to the January 9, 2009 compliance date.			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>
		<input type="text" value="\$250"/>	
	Extraordinary	<input type="text"/>	<input type="text"/>
	Ordinary	<input type="text" value="x"/>	<input type="text"/>
	N/A	<input type="text"/>	<input type="text" value="(mark with x)"/>
<b>Notes</b>	The Respondent came into compliance on January 9, 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="\$11"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$993"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$993"/>	

## Economic Benefit Worksheet

**Respondent** TENET HOSPITALS LIMITED dba Providence Memorial Hospital  
**Case ID No.** 37151  
**Reg. Ent. Reference No.** RN100223858  
**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
No commas or \$							

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$4,880	23-Dec-2008	9-Jan-2009	0.05	\$11	n/a	\$11
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Actual cost to abate, remediate, and dispose of impacted soil in regards to the spill affected area and submit a report to the TCEQ. The date required was the date of the followup investigation and the final date is the date disposal manifest documentation was submitted to the TCEQ El Paso Regional Office.

### 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>	\$4,880	<b>TOTAL</b>	\$11
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# Compliance History Report

Customer/Respondent/Owner-Operator: CN601453897 TENET HOSPITALS LIMITED Classification: AVERAGE Rating: 6.86  
Regulated Entity: RN100223858 Providence Memorial Hospital Classification: AVERAGE Site Rating: 6.86  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 16840  
REGISTRATION  
AIR NEW SOURCE PERMITS PERMIT 16887  
AIR NEW SOURCE PERMITS PERMIT 16907  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE0188V  
AIR NEW SOURCE PERMITS AFS NUM 4814100050  
AIR NEW SOURCE PERMITS REGISTRATION 79267  
Location: 2001 N OREGON ST, EL PASO, TX, 79902  
TCEQ Region: REGION 06 - EL PASO  
Date Compliance History Prepared: February 10, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 10, 2004 to February 10, 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? 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
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/06/2005

ADMINORDER 2004-1220-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Facility failed to submit an annual certification of compliance for the certification period of March 31, 2003 to March 31, 2004 in a timely manner.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 07/09/2004 (271321)

2 07/13/2005 (393933)

3 08/15/2006 (481026)

4 09/01/2006 (489708)

5 10/17/2006 (516093)

6 06/05/2007 (562501)

7 02/02/2009 (721442)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/17/2006 (481026)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Description: Failure to submit annual compliance certification no later than 30 days after the end of the certification period. The reporting period was from March 3, 2005,

through March 2, 2006.

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  
TENET HOSPITALS LIMITED DBA  
PROVIDENCE MEMORIAL  
HOSPITAL  
RN100223858

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BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0196-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 TENET HOSPITALS LIMITED dba Providence Memorial Hospital ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a hospital with backup diesel-powered electric generators supplied by two underground storage tanks ("USTs") at 2001 North Oregon Street in El Paso, El Paso County, Texas (the "Facility").
2. The Respondent's two USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 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 Four Thousand Two Hundred Thirty Dollars (\$4,230) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Three Hundred Eighty-Four Dollars (\$3,384) of the administrative penalty and Eight Hundred Forty-Six Dollars (\$846) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. The TCEQ El Paso Regional Office received documentation verifying that the Respondent submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on December 18, 2008; and
  - b. The TCEQ El Paso Regional Office received documentation verifying that the impacted soil was remediated and properly transported to an off-site authorized facility on January 9, 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 Facility, the Respondent is alleged to have:

1. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on December 12, 2008. Specifically, the delivery certificate expired May 31, 2008.

2. Failed to make available to a common carrier, a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on December 12, 2008. Specifically, the Respondent accepted three fuel deliveries without having a current delivery certificate.
3. Failed to report a release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE §§ 334.72 and 334.76, as documented during an investigation conducted on December 23, 2008. Specifically, the Respondent did not report the diesel fuel release.
4. Failed to immediately clean up a spill or overflow of a petroleum substance from a UST system and begin corrective action, in violation of 30 TEX. ADMIN. CODE § 334.75(a), as documented during an investigation conducted on December 23, 2008. Specifically, during a followup investigation the investigator documented an unauthorized discharge of diesel fuel from an aboveground piping system which impacted an area approximately 3 feet by 5 feet in size.

### 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: TENET HOSPITALS LIMITED dba Providence Memorial Hospital, Docket No. 2009-0196-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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, establish and implement a process for reporting releases, in accordance with 30 TEX. ADMIN. CODE § 334.72, and
  - b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering

Provision No. 2.a. 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
El Paso Regional Office  
Texas Commission on Environmental Quality  
401 East Franklin Avenue, Suite 560  
El Paso, Texas 79901-1206

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. 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.
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 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.
6. 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.

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 under this Agreed Order.
8. 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.

TENET HOSPITALS LIMITED dba Providence Memorial Hospital  
DOCKET NO. 2009-0196-PST-E  
Page 6

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

*John S. Sullivan*  
For the Executive Director

7/2/2009  
Date

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

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

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

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

*[Signature]*  
Signature

5/13/09  
Date

John A. Goh  
Name (Printed or typed)  
Authorized Representative of  
TENET HOSPITALS LIMITED dba Providence Memorial Hospital

Chief Operating Officer  
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.