

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.:2008-0534-PST-E TCEQ ID: RN102221868 CASE NO.: 35633
RESPONDENT NAME: ROBERTINA HARO

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2 ¼ Mile N. Conway, Mission, Hidalgo County</p> <p>TYPE OF OPERATION: Out of service underground storage tank system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired June 29, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789 TCEQ Regional Contact: Mr. Jaime Garza, Harlingen Regional Office, MC R-15, (956) 430-6030 Respondent: Ms. Robertina Haro, 6900 N 34th Street, McAllen, Texas 78504 Respondent's Attorney: Mr. Hector Salinas, Salinas & Legere, P.C., 135 Paseo Del Prado, Suite 5, Edinburg, Texas 78539</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: N/A</p> <p>Dates of Investigations Relating to this Case: February 8, 2008 and March 18, 2008</p> <p>Date of NOE Relating to this Case: February 20, 2008</p> <p>Background Facts: The EDPRP was filed on June 10, 2008. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on December 26, 2008. Subsequently the case became eligible for a recalculation of the penalty on a per-system basis rather than a per-tank basis, which would result in a lower administrative penalty. The Litigation Division notified Respondent's attorney and mailed a revised agreed order for Respondent's signature. After numerous contacts with Respondent's attorney and several requests to submit the revised order, Respondent's attorney was notified that if the revised order was not received by the TCEQ by a date certain, the original order would be presented for Commission approval. Respondent's attorney failed to respond and failed to return the revised order.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent does not have a delivery certificate and owes \$1, 674.39 in past-due fees.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to provide an amended registration regarding underground storage tanks (USTs) within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)]. Failed to permanently remove from service, no later than 60 days after the prescribed updated implementation date, three USTs for which any applicable component of the system was not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)]. Failed to pay UST fees for Fiscal Years 1999 through 2007 and associated late fees [30 TEX. ADMIN. CODE §334.22(a) and TEX. WATER CODE § 5.702]. 	<p>Total Assessed: \$17,600</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$520/\$17,080</p> <p>The Respondent paid \$520 of the administrative penalty. The remaining amount of \$17,080 shall be paid in 35 monthly payments of \$488 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Permanently remove the UST system from service; and Submit payment for outstanding fees, including any associated penalties and interest. Within 45 days, submit an amended registration to reflect the current operational status of the UST system. Within 60 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 29, 2008

TCEQ

DATES	Assigned	25-Feb-2008			
	PCW	28-Mar-2008	Screening	28-Mar-2008	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Robertina Haro				
Reg. Ent. Ref. No.	RN102221868				
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	35633	No. of Violations	3		
Docket No.	2008-0534-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Cynthia McKaughan		
Multi-Media		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$16,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	10% Enhancement	Subtotals 2, 3, & 7	\$1,600
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Notes: The Respondent had two NOVs for same or similar violations, during the previous five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$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.

Total EB Amounts	\$338	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$10,100	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,600
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$17,600
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$17,600
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$17,600
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Screening Date 28-Mar-2008

Docket No. 2008-0534-PST-E

PCW

Respondent Robertina Haro

Policy Revision 2 (September 2002)

Case ID No. 35633

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102221868

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cynthia McKaughan

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)	2	10%
	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%
<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) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent had two NOVs for same or similar violations, during the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 28-Mar-2008

Docket No. 2008-0534-PST-E

PCW

Respondent Robertina Haro

Policy Revision 2 (September 2002)

Case ID No. 35633

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102221868

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cynthia McKaughan

Violation Number 1

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, as documented during an investigation conducted on February 8, 2008. 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

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 49

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on the February 8, 2008 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,100

This violation Final Assessed Penalty (adjusted for limits) \$1,100

Economic Benefit Worksheet

Respondent Robertina Haro
Case ID No. 35633
Reg. Ent. Reference No. RN102221868
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
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	8-Feb-2008	9-Oct-2008	0.7	\$3	n/a	\$3

Notes for DELAYED costs

Approximate cost to update UST registration. Date Required is the date of the investigation. 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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$3

Screening Date 28-Mar-2008

Docket No. 2008-0534-PST-E

PCW

Respondent Robertina Haro

Policy Revision 2 (September 2002)

Case ID No. 35633

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102221868

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cynthia McKaughan

Violation Number 2

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, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, as documented during an investigation conducted on February 8, 2008. Specifically, the upgrades have not been completed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%).

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 6 Number of violation days 49

Table with frequency options: daily, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$15,000

Six monthly events (two per tank) are recommended from the investigation date (February 8, 2008) to the screening date (March 28, 2008).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$334

Violation Final Penalty Total \$16,500

This violation Final Assessed Penalty (adjusted for limits) \$16,500

Economic Benefit Worksheet

Respondent Robertina Haro
Case ID No. 35633
Reg. Ent. Reference No. RN102221868
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$10,000	8-Feb-2008	9-Oct-2008	0.7	\$334	n/a	\$334

Notes for DELAYED costs

Estimated expense to permanently remove the USTs from service. The Date Required is the Investigation Date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$334

Screening Date 28-Mar-2008

Docket No. 2008-0534-PST-E

PCW

Respondent Robertina Haro

Policy Revision 2 (September 2002)

Case ID No. 35633

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102221868

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Cynthia McKaughan

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.22(a) and Tex. Water Code § 5.702

Violation Description Failed to pay UST fees for Fiscal Years 1999 through 2007 and associated late fees, as documented during a record review investigation conducted on March 18, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

No penalty is calculated for this violation.

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events

Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Robertina Haro
Case ID No. 35633
Reg. Ent. Reference No. RN102221868
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
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance \$0

TOTAL \$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN601188238 Haro, Robertina Classification: AVERAGE Rating: 0.50
Regulated Entity: RN102221868 Quick Sak Classification: AVERAGE Site Rating: 0.50
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 62431
REGISTRATION
Location: 2 3/4 MI N CONWAY, MISSION, TX 78572
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: March 28, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: March 28, 2003 to March 28, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Elvia Maske Phone: (512) 239 - 0789

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. if Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator 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.
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 | 06/18/2007 | (561723) |
| 2 | 10/04/2007 | (596353) |
| 3 | 11/28/2007 | (600297) |
| 4 | 11/28/2007 | (601040) |
| 5 | 02/20/2008 | (617910) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 06/18/2007 (561723)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
Description: Failure to permanently remove the existing UST system that was not brought into timely compliance with the upgrade requirements no later than sixty (60) days after the prescribed implementation deadline.
- Date: 11/30/2007 (600297)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
Description: Failure to update the agency records with the current information that accurately reflects the current status of the underground storage tank system.
- Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
Description: Failure to permanently remove the existing UST system that was not brought into timely compliance with the upgrade requirements no later than sixty (60) days after the prescribed implementation deadline.

- 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
ROBERTINA HARO
RN102221868**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0534-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 Robertina Haro ("Ms. Haro") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Ms. Haro represented by Hector Salinas of the law firm of Salinas and Legere, P.C., appear before the Commission and together stipulate that:

1. Ms. Haro owns an underground storage tank ("UST") system located at 2 3/4 Mile N. Conway, Mission, Hidalgo County, Texas (the "Facility").
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 chs. 5 and 26 and TCEQ rules.
3. The Commission and Ms. Haro agree that the Commission has jurisdiction to enter this Agreed Order, and that Ms. Haro is subject to the Commission's jurisdiction.
4. Ms. Haro received notice of the violations alleged in Section II ("Allegations") on or about February 25, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Ms. Haro of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of seventeen thousand six hundred dollars (\$17,600.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Ms. Haro has paid five hundred twenty dollars (\$520.00) of the

administrative penalty. The remaining amount of seventeen thousand eighty dollars (\$17,080.00) of the administrative penalty shall be payable in 35 monthly payments of four hundred eighty-eight dollars (\$488.00) 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. Haro 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. Haro's failure to meet the payment schedule of this Agreed Order constitutes the failure by Ms. Haro 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. Haro have 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. Haro 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

1. During a record review conducted on February 8, 2008, a TCEQ Harlingen Regional Office investigator documented that Ms. Haro violated:
 - a. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to provide an amended registration regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current out of service status of the USTs.

- b. 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to permanently remove from service, no later than 60 days after the prescribed updated implementation date, three USTs for which any applicable component of the system was not brought into timely compliance with the upgrade requirements. Specifically, the upgrades have not been completed.
2. During a record review conducted on March 18, 2008, a TCEQ Central Office staff member documented that Ms. Haro violated 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702 by failing to pay UST fees for Fiscal Years 1999 through 2007 and associated late fees.
3. Ms. Haro received notice of the violations on or about February 25, 2008.

III. DENIALS

Ms. Haro generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Ms Haro pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Ms. Haro'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 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: Robertina Haro, Docket No. 2008-0534-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. Haro shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Ms. Haro shall:
 - i. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and

- ii. Submit payment for outstanding fees, including any associated penalties and interest and with the notation "Robertina Haro, TCEQ Financial Assurance Account No. 0052357U" to:

Financial Administrative Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P. O. Box 13088
Austin, Texas 78711-3088

- b. Within 45 days after the effective date of this Agreed Order, Ms. Haro 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 & Remediation Support Division, MC 138
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Order, Ms. Haro 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. Haro 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 Ramirez, Waste Section Manager
Texas Commission on Environmental Quality
Harlingen Regional Office
1804 W. Jefferson Ave.
Harlingen, Texas 78550-5247

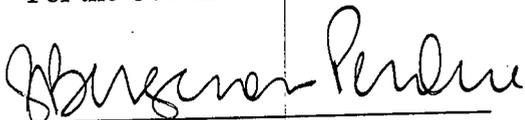
3. The provisions of this Agreed Order shall apply to and be binding upon Ms. Haro.
4. If Ms. Haro fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Haro's failure to comply is not a violation of this Agreed Order. Ms. Haro shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Haro shall notify the Executive Director within seven days after Ms. Haro 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. Haro shall be made in writing to the Executive Director. Extensions are not effective until Ms. Haro 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. Haro 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement 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. Haro, or three days after the date on which the Commission mails notice of the Order to Ms. Haro, 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

12/22/09

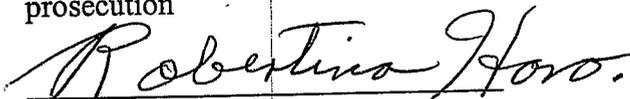
Date

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

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution



Signature

12-26-08

Date

Robertina Haro

Name (Printed or typed)

Authorized representative of
Robertina Haro

Owner

Title