

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1029-PST-E **TCEQ ID:** RN101896249 **CASE NO.:** 37909
RESPONDENT NAME: LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart

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"/> IMMEDIATE 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: Amigos Food Mart, 9405 Long Point Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</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 has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 21, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: 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 Respondent: Mr. Imtiaz Ali, Director, LONGPOINT ENTERPRISES, INC., 9405 Long Point Road, Houston, Texas 77055-4201 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 1, 2009</p> <p>Date of NOV/NOE Relating to this Case: June 26, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to maintain the required underground storage tank ("UST") records and make them immediately available for the inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failure to 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 on August 31, 2005 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>3) 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 received two deliveries of fuel without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>4) Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p>Total Assessed: \$20,894</p> <p>Total Deferred: \$4,178 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$546 (remaining \$16,170 due in 35 monthly payments of \$462 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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Began maintaining all UST records on June 19, 2009;</p> <p>b. Obtained the required insurance coverage for all USTs at the Station on September 16, 2009;</p> <p>c. Successfully conducted the triennial testing of the cathodic protection system on July 15, 2009;</p> <p>d. Successfully conducted the annual line leak detector and piping tightness tests on May 9, 2009;</p> <p>e. Began recording inventory volume measurement and reconciliation of inventory control records on August 1, 2009;</p> <p>f. Began conducting inventory control procedures for all USTs at the Station on August 1, 2009; and</p> <p>g. Successfully conducted the Stage II system compliance testing on June 19, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, cease accepting fuel until such time as a valid UST delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form;</p> <p>b. Within 30 days after the effective date of this Agreed Order, implement a release detection method for all USTs using one of the TCEQ approved methods of release detection; and</p> <p>Within 45 days after the effective date of this Agreed Order, submit written</p>

<p>5) Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].</p> <p>6) Failure to provide release detection for the piping associated with the USTs [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>7) Failure to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>8) Failure to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge system was not functioning properly and there was no other method of release detection being implemented for the UST system [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>9) Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>10) Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>11) Failure to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>12) Failure to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II</p>		<p>certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>
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annual compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): PST No. 36603

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision October 30, 2008

TCEQ DATES	Assigned	29-Jun-2009	Screening	6-Jul-2009	EPA Due	
	PCW	6-Jul-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart		
Reg. Ent. Ref. No.	RN101896249		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37909	No. of Violations	8
Docket No.	2009-1029-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$18,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>			
Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$900
Notes	Adjustment for one prior NOV with same or similar violations.		
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	\$1,375
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
<small>Total EB Amounts</small>	\$3,395	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	\$4,725		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$17,525
OTHER FACTORS AS JUSTICE MAY REQUIRE	19.2%	Adjustment	\$3,369
<small>Reduces or enhances the Final Subtotal by the Indicated percentage.</small>			
Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2, 4, 5, 6, and 8.		
		Final Penalty Amount	\$20,894
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$20,894
DEFERRAL	20.0% Reduction	Adjustment	-\$4,178
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; a.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$16,716

Screening Date 6-Jul-2009

Docket No. 2009-1029-PST-E

PCW

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food M:

Policy Revision 2 (September 2002)

Case ID No. 37909

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101896249

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (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

Adjustment for one prior NOV with same or similar violations.

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

Screening Date 6-Jul-2009	Docket No. 2009-1029-PST-E	PCW	
Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37909	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN101896249			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Judy Kluge			
Violation Number <input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)		
Violation Description	Failed to maintain the required underground storage tank ("UST") records and make them immediately available for the inspection upon request by agency personnel.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
OR			Percent <input type="text" value="0%"/>
>> Programmatic Matrix			
Falsification			
Major	Moderate	Minor	
<input type="text" value="X"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.		
Adjustment		<input type="text" value="\$9,000"/>	
		<input type="text" value="\$1,000"/>	
Violation Events			
Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="49"/>
<i>mark only one with an x</i>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input type="text"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text" value="X"/>	
One single event is recommended based on documentation of the violation during the May 1, 2009, investigation.			Violation Base Penalty <input type="text" value="\$1,000"/>
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$250"/>
		Before NOV NOV to EDPR/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text" value="X"/>	<input type="text"/>	
N/A	<input type="text"/>	(mark with x)	
Notes	The Respondent came into compliance on June 19, 2009, prior to the NOE dated June 26, 2009.		
Violation Subtotal		<input type="text" value="\$750"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$3"/>	Violation Final Penalty Total	<input type="text" value="\$954"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$954"/>	

Economic Benefit Worksheet

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart
Case ID No. 37909
Reg. Ent. Reference No. RN101896249
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	1-May-2009	19-Jun-2009	0.13	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain all UST records. The date required is the investigation date and the final date is the date of compliance.

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$3

Screening Date 6-Jul-2009	Docket No. 2009-1029-PST-E	PCW		
Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37908		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101896249				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)			
Violation Description	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 was not renewed after the ownership change of May 30, 2007.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
OR				
>> Programmatic Matrix				
Falsification				
Major			Moderate	Minor
<input type="checkbox"/>			<input checked="" type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			Percent <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.			
Adjustment		\$9,000		
		\$1,000		
Violation Events				
Number of Violation Events		<input type="text" value="3"/>	Number of violation days	
		<input type="text" value="738"/>		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty <input type="text" value="\$3,000"/>	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input checked="" type="checkbox"/>		
single event	<input type="checkbox"/>			
Three annual events are recommended.				
Good Faith Efforts to Comply		0.0% Reduction <input type="text" value="\$0"/>		
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>	
Extraordinary	<input type="checkbox"/>		Violation Subtotal <input type="text" value="\$3,000"/>	
Ordinary	<input type="checkbox"/>			
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$232"/>	Violation Final Penalty Total <input type="text" value="\$3,756"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,756"/>		

Economic Benefit Worksheet

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart
Case ID No. 37909
Reg. Ent. Reference No. RN101896249
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
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-2009	6-Mar-2010	0.85	\$4	n/a	\$4

Notes for DELAYED costs
 Estimated cost to accurately prepare and submit an updated UST registration and obtain a current TCEQ delivery certificate. The date required is the date of the investigation and the final date is the expected date of compliance.

Item Description	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]	\$200	29-Jun-2007	1-May-2009	2.76	\$28	\$200	\$228
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 Estimated avoided cost (\$100 per full year) to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate. The date required is 30 days after the ownership change of May 30, 2007, and the final date is the date of the investigation.

Approx. Cost of Compliance TOTAL
\$300 \$232

Screening Date 6-Jul-2009	Docket No. 2009-1029-PST-E	PCW		
Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 37909	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No. RN101896249				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number 3				
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)			
Violation Description	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 received two deliveries of fuel without a delivery certificate.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	x	
>> Programmatic Matrix				
Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment		<input type="text" value="\$9,500"/>		<input type="text" value="\$500"/>
Violation Events				
Number of Violation Events	<input type="text" value="2"/>	<input type="text" value="2"/>	Number of violation days	
mark only one with an x	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x	Violation Base Penalty <input type="text" value="\$1,000"/>	
Two single events (one per delivery) are recommended.				
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction <input type="text" value="\$0"/>	
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		<input type="text" value="\$1,000"/>		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$0"/>		Violation Final Penalty Total	<input type="text" value="\$1,252"/>
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$1,252"/>	

Economic Benefit Worksheet

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart
Case ID No. 37909
Reg. Ent. Reference No. RN101896249
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
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 included in Violation No. 2.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

Screening Date 6-Jul-2009	Docket No. 2009-1029-PST-E	PCW		
Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37909	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101896249				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number 4				
Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)			
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum UST's.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Percent			0%	
>> Programmatic Matrix				
Falsification				
Major	Moderate	Minor		
x	<input type="checkbox"/>	<input type="checkbox"/>		
Percent			10%	
Matrix Notes	100% of the rule requirement was not met.			
Adjustment		\$9,000		
		\$1,000		
Violation Events				
Number of Violation Events		3	Number of violation days	
		3		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
single event	x			
Violation Base Penalty			\$3,000	
Three single events are recommended for the three USTs at the Station.				
Good Faith Efforts to Comply		0.0% Reduction		\$0
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal			\$3,000	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$2,048	Violation Final Penalty Total	
			\$3,756	
This violation Final Assessed Penalty (adjusted for limits)			\$3,756	

Economic Benefit Worksheet

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart
Case ID No. 37909
Reg. Ent. Reference No. RN101896249
Media Petroleum Storage Tank
Violation No. 4

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				0.00	\$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]	\$1,950	1-May-2008	1-May-2009	1.00	\$98	\$1,950	\$2,048
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum USTs (at \$650 per tank) for the twelve month period preceding the date of the investigation.

Approx. Cost of Compliance

\$1,950

TOTAL

\$2,048

Screening Date 6-Jul-2009	Docket No. 2009-1029-PST-E																							
Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart	PCW <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>																							
Case ID No. 37908																								
Reg. Ent. Reference No. RN101896249																								
Media [Statute] Petroleum Storage Tank																								
Enf. Coordinator Judy Kluge																								
Violation Number 5																								
Rule Cite(s)	30 Tex. Admin. Code § 334.49(c)(4) and Tex. Water Code § 26.3475(d)																							
Violation Description	Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted.																							
Base Penalty	\$10,000																							
>> Environmental, Property and Human Health Matrix																								
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="25%"/></td> </tr> <tr> <td></td> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>			Harm					Release	Major	Moderate	Minor			Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>		Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Harm																						
	Release	Major	Moderate	Minor																				
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>																			
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																				
>> Programmatic Matrix																								
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Falsification</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> </table>			Falsification					Major	Moderate	Minor				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Percent <input type="text" value="0%"/>					
		Falsification																						
	Major	Moderate	Minor																					
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		Percent <input type="text" value="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	<input type="text" value="1"/> <input type="text" value="66"/> Number of violation days																							
mark only one with an x	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">weekly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	weekly	<input type="checkbox"/>	monthly	<input type="checkbox"/>	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input type="checkbox"/>									
daily	<input type="checkbox"/>																							
weekly	<input type="checkbox"/>																							
monthly	<input type="checkbox"/>																							
quarterly	<input checked="" type="checkbox"/>																							
semiannual	<input type="checkbox"/>																							
annual	<input type="checkbox"/>																							
single event	<input type="checkbox"/>																							
Violation Base Penalty	\$2,500																							
One quarterly event is recommended based on the documentation of the violation during the May 1, 2009, investigation to the July 6, 2009, screening date.																								
Good Faith Efforts to Comply																								
10.0% Reduction	\$250																							
	<small>Before NOV NOV to EDRP/Settlement Offer</small>																							
Extraordinary	<input type="checkbox"/>																							
Ordinary	<input checked="" type="checkbox"/>																							
N/A	<input type="checkbox"/> <small>(mark with x)</small>																							
Notes	The Respondent came into compliance on July 15, 2009, after the NOE dated June 26, 2009.																							
Violation Subtotal	\$2,250																							
Economic Benefit (EB) for this violation																								
Estimated EB Amount	\$461																							
Statutory Limit Test																								
Violation Final Penalty Total	\$2,832																							
This violation Final Assessed Penalty (adjusted for limits)	\$2,832																							

Economic Benefit Worksheet

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart
Case ID No. 37909
Reg. Ent. Reference No. RN101896249
Media Petroleum Storage Tank
Violation No. 5

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]	\$400	30-May-2007	15-Jul-2009	3.06	\$61	\$400	\$461
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for completing the triennial testing per invoice submitted. The date required is the date of ownership change and the final date is the compliance date.

Approx. Cost of Compliance

\$400

TOTAL

\$461

Screening Date 6-Jul-2009	Docket No. 2009-1029-PST-E																														
Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart	PCW <i>Policy Revision 2 (September 2002)</i> <i>PCW Revision October 30, 2009</i>																														
Case ID No. 37909																															
Reg. Ent. Reference No. RN101896249																															
Media [Statute] Petroleum Storage Tank																															
Enf. Coordinator Judy Kluge																															
Violation Number 6																															
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I), and Tex. Water Code § 26.3475(a) and (c)(1)																														
Violation Description	Failed to provide release detection for the piping associated with the USTs. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge system was not functioning properly and there was no other method of release detection being implemented for the UST system. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.																														
Base Penalty	\$10,000																														
>> Environmental, Property and Human Health Matrix																															
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> <td style="text-align: center;">Percent</td> <td style="text-align: center;">25%</td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> <td></td> <td></td> </tr> </table>			Harm				Release	Major	Moderate	Minor			Actual				Percent	25%	Potential	x										
		Harm																													
Release	Major	Moderate	Minor																												
Actual				Percent	25%																										
Potential	x																														
>> Programmatic Matrix																															
Matrix Notes	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td style="text-align: center;">Percent</td> <td style="text-align: center;">0%</td> </tr> <tr> <td colspan="6">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.</td> </tr> </table>			Harm				Falsification	Major	Moderate	Minor	Percent	0%	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.																	
		Harm																													
Falsification	Major	Moderate	Minor	Percent	0%																										
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																														
Violation Events																															
Number of Violation Events	1																														
Number of violation days	66																														
Violation Base Penalty	\$2,500																														
Good Faith Efforts to Comply	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="2"></td> <td style="text-align: center;">0.0%</td> <td>Reduction</td> <td>\$0</td> </tr> <tr> <td colspan="2"></td> <td style="text-align: center;">Before NOV</td> <td>NOV to EDRFP/Settlement Offer</td> <td></td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td style="text-align: center;">x</td> <td></td> <td>(mark with x)</td> <td></td> </tr> <tr> <td style="text-align: center;">Notes</td> <td colspan="4">The Respondent does not meet the good faith criteria for this violation.</td> </tr> </table>			0.0%	Reduction	\$0			Before NOV	NOV to EDRFP/Settlement Offer		Extraordinary					Ordinary					N/A	x		(mark with x)		Notes	The Respondent does not meet the good faith criteria for this violation.			
		0.0%	Reduction	\$0																											
		Before NOV	NOV to EDRFP/Settlement Offer																												
Extraordinary																															
Ordinary																															
N/A	x		(mark with x)																												
Notes	The Respondent does not meet the good faith criteria for this violation.																														
Violation Subtotal	\$2,500																														
Economic Benefit (EB) for this violation																															
Estimated EB Amount	\$342																														
Statutory Limit Test																															
Violation Final Penalty Total	\$3,130																														
This violation Final Assessed Penalty (adjusted for limits)																															
	\$3,130																														

Economic Benefit Worksheet

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart
Case ID No. 37909
Reg. Ent. Reference No. RN101896249
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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
ATG Testing	\$250	1-May-2009	6-Feb-2010	0.77	\$10	n/a	\$10
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Daily Inventory Control Procedures	\$250	1-May-2009	1-Aug-2009	0.25	\$3	n/a	\$3

Notes for DELAYED costs
 The estimated cost for monitoring all USTs for releases including performing monthly ATG tests, to record daily inventory volume measurement, and conduct monthly reconciliation of inventory control records. The date required is the investigation date the final dates are the expected and actual dates of compliance respectively.

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]	\$300	1-May-2008	9-May-2009	1.94	\$29	\$300	\$329
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 Actual avoided cost to conduct the piping tightness and line leak detector tests per invoice submitted. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance **TOTAL**
\$800 \$342

Screening Date 6-Jul-2009	Docket No. 2009-1029-PST-E	PCW	
Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37909	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN101896249			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Judy Kluge			
Violation Number <input type="text" value="7"/>			
Rule Cite(s)	30 Tex. Admin. Code § 334.48(c)		
Violation Description	Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.		
Base Penalty		<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix			
Harm			
	Major	Moderate	Minor
OR			
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	x	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="25%"/>
>> Programmatic Matrix			
Falsification			
	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="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		<input type="text" value="\$7,500"/>	
		<input type="text" value="\$2,500"/>	
Violation Events			
<input type="text" value="1"/>		<input type="text" value="66"/> Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	x	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	
One quarterly event is recommended based on documentation of the violation during the May 1, 2009, investigation to the July 8, 2009, screening date.			Violation Base Penalty <input type="text" value="\$2,500"/>
Good Faith Efforts to Comply		10.0% Reduction	<input type="text" value="\$250"/>
		Before NOV NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	x	
N/A	<input type="text"/>	(mark with x)	
Notes	The Respondent came into compliance on August 1, 2009, after the NOE dated June 26, 2009.		
Violation Subtotal		<input type="text" value="\$2,250"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$6"/>	Violation Final Penalty Total	<input type="text" value="\$2,832"/>
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$2,832"/>	

Economic Benefit Worksheet

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart
Case ID No. 37909
Reg. Ent. Reference No. RN101896249
Media Petroleum Storage Tank
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	1-May-2009	1-Aug-2009	0.25	\$6	n/a	\$6
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$6

Screening Date 6-Jul-2009	Docket No. 2009-1029-PST-E	PCW															
Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart		<i>Policy Revision 2 (September 2002)</i>															
Case ID No. 37909		<i>PCW Revision October 30, 2009</i>															
Reg. Ent. Reference No. RN101896249																	
Media [Statute] Petroleum Storage Tank																	
Enf. Coordinator Judy Kluge																	
Violation Number	<input type="text" value="8"/>																
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)"/>																
Violation Description	<input type="text" value="Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual system compliance testing had not been conducted."/>																
Base Penalty		<input type="text" value="\$10,000"/>															
>> Environmental, Property and Human Health Matrix																	
Harm																	
	Major	Moderate	Minor														
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>						
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>														
Potential	x	<input type="text"/>	<input type="text"/>														
>> Programmatic Matrix																	
	Major	Moderate	Minor														
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>										
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>														
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/>																
Adjustment		<input type="text" value="\$7,500"/>															
		<input type="text" value="\$2,500"/>															
Violation Events																	
	<input type="text" value="1"/>	<input type="text" value="365"/>	Number of violation days														
<i>mark only one with an x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>weekly</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td style="text-align: center;">x</td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	x	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>	
daily	<input type="text"/>																
weekly	<input type="text"/>																
monthly	<input type="text"/>																
quarterly	<input type="text"/>																
semiannual	<input type="text"/>																
annual	x																
single event	<input type="text"/>																
<input type="text" value="One annual event is recommended for the 12-month period preceding the May 1, 2009, investigation."/>																	
Good Faith Efforts to Comply		25.0% Reduction	<input type="text" value="\$625"/>														
		Before NOV NOV to EDRP/Settlement Offer															
Extraordinary	<input type="text"/>																
Ordinary	x																
N/A	(mark with x)																
Notes	<input type="text" value="The Respondent came into compliance on June 19, 2009, prior to the NOE dated June 26, 2009."/>																
Violation Subtotal		<input type="text" value="\$1,875"/>															
Economic Benefit (EB) for this violation																	
Estimated EB Amount		<input type="text" value="\$303"/>															
Statutory Limit Test																	
Violation Final Penalty Total		<input type="text" value="\$2,384"/>															
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$2,384"/>															

Economic Benefit Worksheet

Respondent LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart
Case ID No. 37909
Reg. Ent. Reference No. RN101886249
Media Petroleum Storage Tank
Violation No. 8

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				0.00	\$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]	\$275	1-May-2008	19-Jun-2009	2.05	\$28	\$275	\$303
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for annual testing to verify proper operation of the Stage II equipment per invoice submitted. The date required is the one-year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$275

TOTAL

\$303

Compliance History Report

Customer/Respondent/Owner-Operator: CN603485046 LONGPOINT ENTERPRISES, INC. Classification: AVERAGE Rating: 5.25
Regulated Entity: RN101896249 Amlgos Food Mart Classification: AVERAGE Site Rating: 5.25
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 36603
Location: 9405 LONG POINT RD, HOUSTON, TX, 77055
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: July 06, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 06, 2004 to July 06, 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 operator of the site during the compliance period? Yes
3. If Yes, who is the current operator? Operator, LONGPOINT ENTERPRISES, INC.
4. If Yes, who was/were the prior owner(s)/operator(s)? Sohail Malik, Operator
5. When did the change(s) in operator occur? 05/30/2007
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|----------|
| 1 | 02/28/2007 | (542075) |
| 2 | 04/08/2007 | (554442) |
| 3 | 08/31/2007 | (573584) |
| 4 | 06/26/2009 | (744542) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | |
|--------------|---|----------|--------------------------|
| Date: | 02/28/2007 | (542075) | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.242(3) | | |
| Description: | 30 Tex. Admin. Code § 115.242 (3)(G) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC § 115, SubChapter C 115.242(9) | | |
| Description: | 30 Tex. Admin. Code Section 115.242 (9) - Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC § 115, SubChapter C 115.245(2) | | |
| Description: | Tex. Admin. Code Section 115.245 (2)- Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC § 115, SubChapter C 115.244(1) | | |
| Description: | Tex. Admin. Code Section 115.244 (1) - Failure to conduct daily inspections of the Stage II vapor recovery system. | | |
| Self Report? | NO | | Classification: Moderate |

Citation: 30 TAC § 115, SubChapter C 115.244(3)
 Description: Tex. Admin. Code Section 115.244 (3) - Failure to conduct monthly inspections of the components listed in §115.242(3)(J) of this title.

Self Report? NO Classification: Moderate
 Citation: 30 TAC § 115, SubChapter C 115.248(1)
 Description: 30 Tex. Admin. Code Section 115.248(1)- Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage II vapor recovery system.

Self Report? NO Classification: Minor
 Citation: 30 TAC § 115, SubChapter C 115.246(3)
 Description: 30 Tex. Admin. Code Section 115.246(3)- Failure to maintain a record of any maintenance conducted on any part of the Stage II equipment.

Self Report? NO Classification: Minor
 Citation: 30 TAC § 115, SubChapter C 115.246(1)
 Description: 30 Tex. Admin Code Section 115.246 (1)- Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system and any related components installed at the facility.

Self Report? NO Classification: Moderate
 Citation: 30 TAC § 115, SubChapter C 115.246(7)(A)
 Description: 30 Tex. Admin. Code Section 115.246 (7)(A) - Failure to maintain records on-site and make immediately available for review upon.

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
LONGPOINT ENTERPRISES, INC.
DBA AMIGOS FOOD MART
RN101896249**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1029-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 LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 9405 Long Point Road in Houston, Harris County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 1, 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 Twenty Thousand Eight Hundred Ninety-Four Dollars (\$20,894) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Forty-Six Dollars (\$546) of the administrative penalty and Four Thousand One Hundred Seventy-Eight Dollars (\$4,178) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Sixteen Thousand One Hundred Seventy Dollars (\$16,170) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Sixty-Two Dollars (\$462) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Began maintaining all UST records on June 19, 2009;
 - b. Obtained the required insurance coverage for all USTs at the Station on September 16, 2009;
 - c. Successfully conducted the triennial testing of the cathodic protection system on July 15, 2009;
 - d. Successfully conducted the annual line leak detector and piping tightness tests on May 9, 2009;
 - e. Began recording inventory volume measurement and reconciliation of inventory control records on August 1, 2009;
 - f. Began conducting inventory control procedures for all USTs at the Station on August 1, 2009; and
 - g. Successfully conducted the Stage II system compliance testing on June 19, 2009.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on May 1, 2009.
2. 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 May 1, 2009. Specifically, the delivery certificate expired on August 31, 2005.
3. 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 May 1, 2009. Specifically, the Respondent received two deliveries of fuel without a delivery certificate.
4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on May 1, 2009.
5. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on May 1, 2009. Specifically, the triennial test had not been conducted.
6. Failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on May 1, 2009.
7. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE

§ 26.3475(a), as documented during an investigation conducted on May 1, 2009. Specifically, the line leak detectors had not been performance tested annually.

8. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on May 1, 2009. Specifically, the automatic tank gauge system was not functioning properly and there was no other method of release detection being implemented for the UST system.
9. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on May 1, 2009.
10. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on May 1, 2009.
11. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on May 1, 2009.
12. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 1, 2009. Specifically, the Stage II annual compliance testing had not been conducted.

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: LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart, Docket No. 2009-1029-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, cease accepting fuel until such time as a valid UST delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8; and
- b. Within 30 days after the effective date of this Agreed Order, implement a release detection method for all USTs using one of the TCEQ approved methods of release detection, in accordance with 30 TEX. ADMIN. CODE § 334.50.
- c. Within 45 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 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 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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 Station 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

12/11/2009
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

10-10-09
Date

Enrique Ali
Name (Printed or typed)
Authorized Representative of
LONGPOINT ENTERPRISES, INC. dba Amigos Food Mart

owner
Title

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

