

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0617-PST-E TCEQ ID: RN101762698 CASE NO.: 37542**

**RESPONDENT NAME: Petrocapital Management, LLC dba Hitchcock Chevron**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Hitchcock Chevron, 7727 Highway 6, Hitchcock, Galveston County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 18, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Brianna Carlson, Enforcement Division, Enforcement Team 6, MC R-15, (956) 430-6021; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Ahmed Ansari, Managing Member, Petrocapital Management, 5415 Dunston Court, Sugar Land, Texas 77479  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 18, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 27, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically the Respondent did not conduct the required annual and triennial Stage II compliance test after ownership change on November 1, 2007 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the vent sensor was absent from the pressure vent valve assembly [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$4,673</p> <p><b>Total Deferred:</b> \$934  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$239 (remaining \$3,500 due in 35 monthly payments of \$100 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent successfully conducted Stage II annual and triennial system compliance testing on April 3, 2009.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, begin maintaining Stage II vapor recovery system in proper operating condition, including but not limited to, installing a vent sensor to the pressure vent valve assembly; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

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

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned</b> 20-Apr-2009	<b>Screening</b> 28-Apr-2009	<b>EPA Due</b>
	<b>PCW</b>	31-Jul-2009		

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Petrocapital Management, LLC dba Hitchcock Chevron
<b>Reg. Ent. Ref. No.</b>	RN101762698
<b>Facility/Site Region</b>	12-Houston <span style="float: right;"><b>Major/Minor Source</b> Minor</span>

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	37542	<b>No. of Violations</b>	2
<b>Docket No.</b>	2009-0617-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Brianna Carlson
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

<b>Penalty Calculation Section</b>	
<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b> \$3,500
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>	
<b>Compliance History</b>	45.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> \$1,575
<b>Notes</b>	Enhancement for one findings order and four NOV's with same or similar violations.
<b>Culpability</b>	No 0.0% Enhancement <b>Subtotal 4</b> \$0
<b>Notes</b>	The Respondent does not meet the culpability criteria.
<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b> \$625
<b>Economic Benefit</b>	0.0% Enhancement* <b>Subtotal 6</b> \$0
<small>Total EB Amounts</small> \$228	<small>*Capped at the Total EB \$ Amount</small>
<small>Approx. Cost of Compliance</small> \$285	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b> \$4,450
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	5.0% <b>Adjustment</b> \$223
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>	
<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.
	<b>Final Penalty Amount</b> \$4,673
<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b> \$4,673
<b>DEFERRAL</b>	20.0% Reduction <b>Adjustment</b> -\$934
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
<b>Notes</b>	Deferral offered for expedited settlement.
<b>PAYABLE PENALTY</b>	<b>\$3,739</b>

**Screening Date:** 28-Apr-2009

**Docket No.:** 2009-0617-PST-E

**PCW**

**Respondent:** Petrocapital Management, LLC dba Hitchcock Chevron

Policy Revision 2 (September 2002)

**Case ID No.:** 37542

PCW Revision October 30, 2008

**Reg. Ent. Reference No.:** RN101762698

**Media [Statute]:** Petroleum Storage Tank

**Enf. Coordinator:** Brianna Carlson

### 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)	4	20%
	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	1	25%
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 judgments 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)** 45%

>> **Repeat Violator (Subtotal 3)**

No.

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one findings order and four NOVs with same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 45%

**Screening Date:** 28-Apr-2009      **Docket No.:** 2009-0817-PST-E      **PCW**  
**Respondent:** Petrocapital Management, LLC dba Hitchcock Chevron      *Policy Revision 2 (September 2002)*  
**Case ID No.:** 37542      *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.:** RN101762898  
**Media [Statute]:** Petroleum Storage Tank  
**Enf. Coordinator:** Brianna Carlson

**Violation Number:** 1  
**Rule Cite(s):** 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description:** Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Respondent did not conduct the required annual and triennial Stage II compliance test after ownership change on November 1, 2007.  
**Base Penalty:** \$10,000

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

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x		25%	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	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  
**Subtotal:** \$2,500

**Violation Events**

**Number of Violation Events:** 1      **475** Number of violation days  
*mark only one with an x*  
 daily   
 weekly   
 monthly   
 quarterly   
 semiannual   
 annual   
 single event

**Violation Base Penalty:** \$2,500

One single event is recommended for the period preceding the February 18, 2009 investigation.

**Good Faith Efforts to Comply**      **25.0% Reduction**      **\$625**

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

**Notes:** The Respondent came into compliance on April 3, 2009, prior to the NOE dated April 27, 2009.

**Violation Subtotal:** \$1,875

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**  
**Estimated EB Amount:** \$223      **Violation Final Penalty Total:** \$3,150  
**This violation Final Assessed Penalty (adjusted for limits):** \$3,150

## Economic Benefit Worksheet

**Respondent:** Petrocapital Management, LLC dba Hitchcock Chevron  
**Case ID No.:** 37542  
**Reg. Ent. Reference No.:** RN101762698  
**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				0.00	\$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)**

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	1-Nov-2007	3-Apr-2009	2.34	\$23	\$200	\$223
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for annual and triennial testing of the Stage II equipment. The date required is the date of ownership and the final date is the compliance date.

Approx. Cost of Compliance

\$200

**TOTAL**

\$223

<b>Screening Date</b>	28-Apr-2009	<b>Docket No.</b>	2009-0617-PST-E	<b>PCW</b>
<b>Respondent</b>	Petrocapital Management, LLC dba Hitchcock Chevron		<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b>	37542	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN101762698			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Brianna Carlson			
<b>Violation Number</b>	2			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the vent sensor was absent from the pressure vent valve assembly.			
<b>Base Penalty</b>	\$10,000			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
<b>Adjustment</b>	\$9,000			
				<b>\$1,000</b>
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	<input type="text" value="89"/>
<i>mark only one with an x</i>	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"/>		
			<b>Violation Base Penalty</b>	<input type="text" value="\$1,000"/>
	One quarterly event is recommended based on documentation of the violation during the February 18, 2009 investigation to the April 28, 2009 screening date.			
<b>Good Faith Efforts to Comply</b>				
	<input type="text" value="0.0%"/> Reduction		<b>\$0</b>	
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/> (mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>	\$1,000			
<b>Economic Benefit (EB) for this violation</b>				
<b>Estimated EB Amount</b>	<input type="text" value="\$5"/>		<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,523"/>
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$1,523"/>

## Economic Benefit Worksheet

**Respondent:** Petrocapital Management, LLC dba Hitchcock Chevron  
**Case ID No:** 37542  
**Reg. Ent. Reference No:** RN101762698  
**Media:** Petroleum Storage Tank  
**Violation No:** 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$85	18-Feb-2009	28-Dec-2009	0.86	\$0	\$5	\$5
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

Estimated cost to install a vent sensor on the pressure vent valve assembly. 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)

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$85

**TOTAL**

\$5

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603424904 Petrocapital Management, LLC Classification: AVERAGE Rating: 28.40  
Regulated Entity: RN101762698 Hitchcock Chevron Classification: AVERAGE Site Rating: 28.40

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 35088  
REGISTRATION

Location: 7727 HIGHWAY 6, HITCHCOCK, TX, 77563

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 23, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 23, 2004 to April 23, 2009

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

Name: Brianna Carlson Phone: 956/430-6021

## 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? Yes
3. If Yes, who is the current owner/operator? Petrocapital Management, LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ?  
Jain, Vijay  
Singh, Rogbir  
Verani, Wali  
Nayani, Al Javad  
Shamshudin, Shariff  
Kanaan, Ayser Faried
5. When did the change(s) in owner or operator occur? 11/01/2007  
Jain, Vijay  
Singh, Rogbir  
Verani, Wali  
Nayani, Al Javad  
Shamshudin, Shariff  
Kanaan, Ayser Faried
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

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

Effective Date: 05/14/2004

ADMINORDER 2002-0255-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(B)

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

Description: Stage II vapor recovery hoses were crimped or flattened

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

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

Description: Failed to document that employees had received Stage II training

- 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 08/31/2006 (510302)
- 2 12/18/2006 (517961)
- 3 04/05/2007 (554617)
- 4 08/06/2007 (566259)
- 5 04/15/2009 (736349)

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

Date: 08/31/2006 (510302)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)  
Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
Description: Failure to maintain a record of the results of the daily and monthly inspections.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  
Description: Failure to maintain Stage II training documentation for the facility representative and other employees in accordance with 115.246 (4).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)  
Description: Failure to maintain Stage II related maintenance records.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)  
Description: Failure to maintain a copy of CARB order on-site. (G-70-165)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)  
Description: Failure to maintain records of Stage II annual and triennial testing on-site.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)  
Description: Failure to maintain Stage II vapor recovery system in proper operating condition.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)  
Description: Failure to maintain booted nozzle vapor guards in good condition.

Date: 12/18/2006 (517961)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)  
Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
Description: Failure to maintain a record of the results of the daily and monthly inspections.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  
Description: Failure to maintain Stage II training documentation for the facility representative and other employees in accordance with 115.246 (4).  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)  
Description: Failure to maintain Stage II related maintenance records.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)  
Description: Failure to maintain a copy of CARB order on-site. (G-70-165)  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)  
Description: Failure to maintain records of Stage II annual and triennial testing on-site.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

Description: Failure to maintain Stage II vapor recovery system in proper operating condition.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)  
Description: Failure to maintain booted nozzle vapor guards in good condition.

Date: 04/05/2007 (554617)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)  
Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)

Description: Failure to maintain a record of the results of the daily and monthly inspections.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: Failure to maintain Stage II training documentation for the facility representative and other employees in accordance with 115.246 (4).

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: Failure to maintain Stage II related maintenance records.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: Failure to maintain a copy of CARB order on-site. (G-70-165)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: Failure to maintain records of Stage II annual and triennial testing on-site.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

Description: Failure to maintain Stage II vapor recovery system in proper operating condition.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(E)

Description: Failure to maintain booted nozzle vapor guards in good condition.

Date: 04/15/2009 (736349)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: Failure to maintain a record of the results of testing conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in §115.245 of this title (relating to Testing Requirements).

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(L)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including a nozzle, hose, break-away, or any other component that is not approved for use with the certified vapor recovery system in use.

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  
PETROCAPITAL MANAGEMENT,  
LLC DBA HITCHCOCK CHEVRON  
RN101762698**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-0617-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 Petrocapital Management, LLC dba Hitchcock Chevron ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 7727 Highway 6 in Hitchcock, Galveston County, Texas (the "Station").
2. 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 May 2, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Six Hundred Seventy-Three Dollars (\$4,673) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Two Hundred Thirty-Nine Dollars (\$239) of the administrative penalty and Nine Hundred Thirty-Four Dollars (\$934) 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 Three Thousand Five Hundred Dollars (\$3,500) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Dollars (\$100) 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 successfully conducted Stage II annual and triennial system compliance testing on April 3, 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 verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented

during an investigation conducted on February 18, 2009. Specifically, the Respondent did not conduct the required annual and triennial Stage II compliance test after ownership change on November 1, 2007.

2. Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, including but not limited to absence or disconnection of any component that is a part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 18, 2009. Specifically, the vent sensor was absent from the pressure vent valve assembly.

### 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: Petrocapital Management, LLC dba Hitchcock Chevron, Docket No. 2009-0617-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. Within 30 days after the effective date of this Agreed Order, begin maintaining Stage II vapor recovery system in proper operating condition, including but not limited to, installing a vent sensor to the pressure vent valve assembly, in accordance with 30 TEX. ADMIN. CODE § 115.242; and
  - b. 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 No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the

submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste 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

  
For the Executive Director

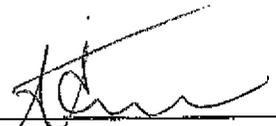
12/21/2009  
Date

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

8/6/2009  
Date

Ahmed Ansari  
Name (Printed or typed)  
Authorized Representative of  
Petrocapital Management, LLC, dba Hitchcock Chevron

Manager of Managing Member  
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.