

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2009-1311-PST-E TCEQ ID RN101446938 CASE NO. 38148**  
**RESPONDENT NAME: V D N ENTERPRISES, INC DBA RIDGEWOOD MART**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 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

**SITE WHERE VIOLATIONS OCCURRED:** 4310 North Main Street, Liberty, Liberty County

**TYPE OF OPERATION:** Convenience store with retail sales of fuel

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired March 15, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Sharesa Y. Alexander, Litigation Division, MC 175, (512) 239-3503  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Mr. Wallace Myers, Waste Enforcement Section, MC 128, (512) 239-6580

**TCEQ Regional Contact:** Ms. Nicolle Bealle, Houston Regional Office, MC R-12, (713) 767-3623

**Respondent:** Ms. Deena Virani, President, V D N Enterprises, Inc., P.O. Box 748, Liberty, Texas 77575-0748 and 4310 N. Main, Liberty, Texas 77575

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 13, 2009</p> <p><b>Date of NOE Relating to this Case:</b> September 24, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed on December 8, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on December 14, 2009. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to maintain Stage II records at the Station [30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems; 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 [30 TEX. ADMIN. CODE § 115.242(1)(C) and (3)(A) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to verify proper operation of the Stage II equipment at least once every 12 months and vapor space manifolding and dynamic back-pressure at least once every 36 months or upon major system replacement or modification, which ever occurs first [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> </ol>	<p><b>Total Assessed:</b> \$7,721</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$7,721</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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>Ordering Provisions:</b></p> <p>The Respondent's UST fuel delivery certificate is revoked immediately. The Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all the requirements of this Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately begin maintaining all Stage II records at the Station.</li> <li>Within 10 days, send the UST fuel delivery certificate to TCEQ.</li> <li>Within 30 days:             <ol style="list-style-type: none"> <li>Upgrade the Stage II equipment to ORVR compatible systems and conduct successful Stage II vapor recovery tests after completing ORVR upgrade;</li> <li>Begin maintaining the Stage II vapor recovery system in proper operating condition including, but not limited to, installation of swivel adaptors on the fill risers; and</li> <li>Successfully conduct the required annual and triennial testing of the Stage II equipment.</li> </ol> </li> <li>Within 45 days, submit written certification demonstrating compliance Ordering Provision Nos. 1 through 3.c.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	27-Jul-2009			
	<b>PCW</b>	30-Nov-2009	<b>Screening</b>	28-Jul-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	V D N ENTERPRISES, INC. dba Ridgewood Mart
<b>Reg. Ent. Ref. No.</b>	RN101446938
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	38148	<b>No. of Violations</b>	3
<b>Docket No.</b>	2009-1311-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>	Wallace Myers
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	45.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$2,025
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**Notes**

Enhancement for one 1660 order, two NOV's with same or similar violations, and poor performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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**Notes**

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,360
Approx. Cost of Compliance	\$4,150

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,525
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	18.3%	<b>Adjustment</b>	\$1,196
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

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

**Final Penalty Amount**

\$7,721

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,721
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$7,721
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**Screening Date** 28-Jul-2009

**Docket No.** 2009-1311-PST-E

**PCW**

**Respondent** V D N ENTERPRISES, INC. dba Ridgewood Mart

Policy Revision 2 (September 2002)

**Case ID No.** 38148

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101446938

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Wallace Myers

### 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 ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	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 ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	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 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	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)** 35%

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

No

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

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

Poor Performer

**Adjustment Percentage (Subtotal 7)** 10%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one 1660 order, two NOVs with same or similar violations, and poor performer classification.

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

**Screening Date** 28-Jul-2009 **Docket No.** 2009-1311-PST-E **PCW**  
**Respondent** V D N ENTERPRISES, INC. dba Ridgewood Mart *Policy Revision 2 (September 2002)*  
**Case ID No.** 38148 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101446938  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Wallace Myers

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   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**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** V D N ENTERPRISES, INC. dba Ridgewood Mart  
**Case ID No.** 38148  
**Reg. Ent. Reference No.** RN101446938  
**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	\$500	13-Jul-2009	28-Mar-2010	0.71	\$18	n/a	\$18
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 Stage II records. The date required is the record review date and the final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$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**

\$18

**Screening Date** 28-Jul-2009 **Docket No.** 2009-1311-PST-E **PCW**  
**Respondent** V D N ENTERPRISES, INC. dba Ridgewood Mart *Policy Revision 2 (September 2002)*  
**Case ID No.** 38148 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101446938  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Wallace Myers

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 115.242(1)(C) and (3)(A) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Also, 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, swivel adapters were not installed on the fill risers.

**Base Penalty** \$10,000

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

OR	<b>Harm</b>			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential		x		10%	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent

**Matrix Notes** 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.

**Adjustment** \$9,000

\$1,000

**Violation Events**

Number of Violation Events 1 15 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,000

One quarterly event is recommended based on documentation of the violation during the July 13, 2009 record review to the July 28, 2009 screening date.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDRP/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** \$1,000

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

**Estimated EB Amount** \$146 **Violation Final Penalty Total** \$1,716

**This violation Final Assessed Penalty (adjusted for limits)** \$1,716

## Economic Benefit Worksheet

**Respondent** V D N ENTERPRISES, INC. dba Ridgewood Mart  
**Case ID No.** 38148  
**Reg. Ent. Reference No.** RN101446938  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment	\$2,500	13-Jul-2009	27-Apr-2010	0.79	\$7	\$132	\$138
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$150	13-Jul-2009	27-Apr-2010	0.79	\$0	\$8	\$8
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 upgrade the Stage II equipment to ORVR compatible systems (\$2,500) and estimated cost to install swivel adaptors (\$150). The dates required are the record review dates and the final dates are the estimated dates 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

\$2,650

**TOTAL**

\$146

**Screening Date** 28-Jul-2009 **Docket No.** 2009-1311-PST-E **PCW**  
**Respondent** V D N ENTERPRISES, INC. dba Ridgewood Mart *Policy Revision 2 (September 2002)*  
**Case ID No.** 38148 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101446938  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Wallace Myers

**Violation Number** 3

**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 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 Stage II annual and triennial compliance tests had not been conducted.

**Base Penalty** \$10,000

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

OR	<b>Harm</b>			<b>Percent</b> 25%
	Major	Moderate	Minor	
	Actual			
	Potential	x		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b> 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 1 1095 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

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

One single event is recommended for the three year period preceding the July 13, 2009 record review.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOV	NOV to EDRP/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** **Statutory Limit Test**

**Estimated EB Amount** \$1,196 **Violation Final Penalty Total** \$4,289

**This violation Final Assessed Penalty (adjusted for limits)** \$4,289

## Economic Benefit Worksheet

**Respondent** V D N ENTERPRISES, INC. dba Ridgewood Mart  
**Case ID No.** 38148  
**Reg. Ent. Reference No.** RN101446938  
**Media** Petroleum Storage Tank  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$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]	\$1,000	13-Jul-2006	13-Jul-2009	3.92	\$196	\$1,000	\$1,196
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for annual and triennial testing to verify proper operation of the Stage II equipment. The date required is three years prior to the record review date and the final date is the record review date.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,196

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN6029137 V D N ENTERPRISES, INC.	Classification: POOR	Rating: 125.00
Regulated Entity:	RN1014469 Ridgewood Mart	Classification: POOR	Site Rating:
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		31562
Location:	4310 N MAIN ST, LIBERTY, TX, 77575		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History	July 28, 2009		
Agency Decision Requiring Compliance	Enforcement		
Compliance Period:	July 28, 2004 to July 28, 2009		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance			
Name:	Wallace Myers	Phone:	512-239-6580

## 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?  

OWNOPR	V D N ENTERPRISES, INC.
OWNOPR	Al-liam Ent., Inc.
OWNOPR	Al-Ilam Enterprises, Inc. dba Happy Chap Market 1
4. If Yes, who was/were the prior owner(s)/operator(s) ?  

OWNOPR	Al-Ilam Enterprises, Inc. dba Happy Chap
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5. When did the change(s) in owner or operator occur?  

09/01/2005	OWNOPR	Al-Ilam Enterprises, Inc. dba Happy Chap
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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.
- |  |   |                                   |
|--|---|-----------------------------------|
|  | <b>Effective Date: 04/29/2005</b>   | <b>ADMINORDER 2004-0416-PST-E</b> |
|  | Classification: Minor   |                                   |
|  | Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)<br>5C THC Chapter 382, SubChapter A 382.085(b)   |                                   |
|  | Description: Failure to provide and maintain the Stage II Vapor Recovery system in proper operating condition.  |                                   |
|  | Classification: Moderate  |                                   |
|  | Citation: 2D TWC Chapter 26, SubChapter A 26.3475<br>30 TAC Chapter 334, SubChapter C 334.49(c)(2)(C)<br>30 TAC Chapter 334, SubChapter C 334.49(c)(4)  |                                   |
|  | Description: Failure to have cathodic protection system tested by a qualified corrosion specialist or corrosion technician in accordance within three to six months after installation and at a subsequent frequency of at least once every three years. Failure to inspect the impressed current cathodic protection system by the owner.  |                                   |
|  | Classification: Moderate  |                                   |
|  | Citation: 2D TWC Chapter 26, SubChapter A 26.3475<br>30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)<br>30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)  |                                   |
|  | Description: Failure to equip each pressurized line with an automatic line leak detector and have line leak detectors tested at least once per year for performance and operational reliability, and properly calibrate and maintain in accordance with the manufacturer's specifications and recommended procedures.                       |                                   |
|  | Classification: Moderate  |                                   |
|  | Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(iii)  |                                   |
|  | Description: The owner and operator of USTs regulated under this section must ensure that a valid, current TNRCC delivery certificate (or TNRCC temporary delivery authorization under subparagraph (D) of this paragraph, as applicable) is posted at a facility. The posting must be in a location where the document is clearly visible. |                                   |
- 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 | 11/30/2006 | (514743) |
| 2 | 11/18/2008 | (702296) |
| 3 | 04/23/2009 | (735721) |
| 4 | 07/23/2009 | (761911) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |  |   |                          |
|--|---|--------------------------|
|  | <b>Date: 11/18/2008 (702296)</b>  |                          |
|  | Self Report? NO   | Classification: Minor    |
|  | Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)   |                          |
|  | Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee. |                          |
|  | Self Report? NO   | Classification: Minor    |
|  | Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)   |                          |
|  | Description: Failure to maintain a maintenance log for all repair/replacements conducted at the facility.   |                          |
|  | 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 facility according to 115.245 (Testing Requirements).  |                          |
|  | Self Report? NO   | Classification: Moderate |

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
Description: Failure to provide and maintain the Stage II Vapor Recovery system in proper operating condition, as specified by the California Air Resources Board (CARB) Executive Order, including the absence or disconnection of any component that is a part of the approved system.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(C)(i)  
30 TAC Chapter 115, SubChapter C 115.242(3)(C)(ii)  
30 TAC Chapter 115, SubChapter C 115.242(3)(C)(iii)  
Description: Failure to maintain all components of the Stage II Vapor Recovery system to an approved condition free of defects that would impair the effectiveness of the system -- a nozzle boot that is damaged.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)  
Description: Failure to install a compatible onboard refueling vapor recovery (ORVR) Stage II vapor recovery system as defined in §115.240 of this title in accordance with the schedules in §115.249 of this title.

**Date: 04/23/2009 (735721)**  
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 facility according to 115.245 (Testing Requirements).  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
Description: Failure to provide and maintain the Stage II Vapor Recovery system in proper operating condition, as specified by the California Air Resources Board (CARB) Executive Order, including the absence or disconnection of any component that is a part of the approved system.  
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)  
Description: Failure to install a compatible onboard refueling vapor recovery (ORVR) Stage II vapor recovery system as defined in §115.240 of this title in accordance with the schedules in §115.249 of this title.

- 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



<b>IN THE MATTER OF AN</b>	§	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	§	
<b>CONCERNING</b>	§	<b>TEXAS COMMISSION ON</b>
<b>V D N ENTERPRISES, INC. DBA</b>	§	
<b>RIDGEWOOD MART;</b>	§	<b>ENVIRONMENTAL QUALITY</b>
<b>RN101446938</b>	§	

**DEFAULT ORDER**  
**DOCKET NO. 2009-1311-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent’s fuel delivery certificate. The respondent made the subject of this Order is V D N ENTERPRISES, INC. dba Ridgewood Mart (“Respondent”).

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Respondent owns and operates a convenience store with retail sales of fuel located at 4310 North Main Street, Liberty, Liberty County, Texas (the “Station”).
2. Respondent’s two underground storage tanks (“USTs”) are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Respondent’s USTs contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review conducted on July 13, 2009, a TCEQ Houston Regional Office investigator documented that Respondent:
  - a. Failed to maintain Stage II records at the Station. Specifically, testing records for the Stage II system were not available for review;
  - b. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery (“ORVR”) compatible systems. Also, Respondent 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, swivel adapters were not installed on the fill risers; and

- c. Failed to verify proper operation of the Stage II equipment at least once every 12 months and 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 Stage II annual and triennial compliance tests had not been conducted.
4. Respondent received notice of the violations on or about September 29, 2009.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of V D N ENTERPRISES, INC. dba Ridgewood Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on December 8, 2009.
6. By letter dated December 8, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on December 14, 2009, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Respondent failed to maintain Stage II records at the Station, in violation of 30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., Respondent failed to upgrade the Stage II equipment to ORVR compatible systems. Also, Respondent 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(1)(C) and (3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b).

4. As evidenced by Finding of Fact No. 3.c., Respondent failed to verify proper operation of the Stage II equipment at least once every 12 months and vapor space manifolding 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).
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact No. 7, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of seven thousand seven hundred twenty-one dollars (\$7,721.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Respondent's UST fuel delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of Respondent's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 through 7 and Conclusions of Law Nos. 2 through 6.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of seven thousand seven hundred twenty-one dollars (\$7,721.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all

the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: V D N ENTERPRISES, INC. dba Ridgewood Mart; Docket No. 2009-1311-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. Respondent's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Respondent shall send its UST fuel delivery certificate to:

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

4. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Respondent shall begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246;
  - b. Within 30 days after the effective date of this Order, Respondent shall:
    - i. Upgrade the Stage II equipment to ORVR compatible systems and conduct successful Stage II vapor recovery tests after completing ORVR upgrade, in accordance with 30 TEX. ADMIN. CODE § 115.242;

- ii. Begin maintaining the Stage II vapor recovery system in proper operating condition including, but not limited to, installation of swivel adaptors on the fill risers, in accordance with 30 TEX. ADMIN. CODE § 115.242; and
  - iii. Successfully conduct the required annual and triennial testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245.
- c. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 4.a. through 4.b.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 4.a. through 4.b.iii. 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:

Ms. Nicole Bealle, Waste Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Ave., Ste. H  
Houston, Texas 77023-1452

5. All relief not expressly granted in this Order is denied.

6. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
7. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF SHARESASA Y. ALEXANDER**

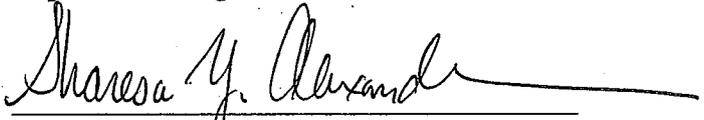
STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Sharesa Y. Alexander. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of VDN ENTERPRISES, INC. dba Ridgewood Mart” (the “EDPRP”) was filed with the Office of the Chief Clerk on December 8, 2009.

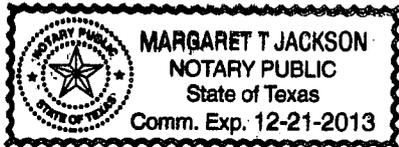
The EDPRP was mailed to Respondent at its last known address on December 8, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Respondent received notice of the EDPRP on December 14, 2009, as evidenced by the signature on the card.

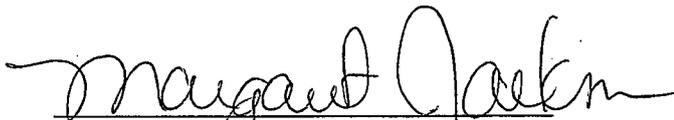
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”

  
\_\_\_\_\_  
Sharesa Y. Alexander, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Sharesa Y. Alexander known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 15 day of January, A.D., 2010.



  
\_\_\_\_\_  
Notary Signature