

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2008-1667-PST-E TCEQ ID RN101914026 CASE NO. 36683
RESPONDENT NAME: HINA ENTERPRISES, INC. DBA OJS MOBIL 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"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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: 9508 Highway 12, Orange, Orange County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: One complaint was received alleging that premium gas pumps were dispensing material other than gasoline. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

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

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Waste Enforcement Section, MC 128, (512) 239-5690

TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondent: Mr. Mohammad Sultan, Director and President, Hina Enterprises, Inc., 3190 N. Main St., Vidor, Texas 77662

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

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: June 15, 2009</p> <p>Dates of Investigation Relating to this Case: June 30, 2008; July 29, 2009</p> <p>Dates of NOEs Relating to this Case: August 6, 2008; August 4, 2009</p> <p>Background Facts: The EDPRP was filed April 10, 2009. The Respondent filed an answer and the case was referred to SOAH. An EDFARP was filed on October 7, 2009, after a subsequent investigation resulted in additional violations. Settlement was achieved and the agreed order was signed on December 5, 2009.</p> <p>Current Compliance Status: No outstanding Technical Requirements. The Respondent's delivery certificate expires in October 2010.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(2)(B)]. Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Station [30 TEX. ADMIN. CODE § 334.48(c)]. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition and are inspected and serviced as per manufacturer's specifications [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)]. Failed to comply with vapor control requirements by failing to eliminate any avoidable gasoline leaks, as detected by sight, sound, or smell, anywhere in the liquid transfer or vapor balance system [30 TEX. ADMIN. CODE §§ 115.222(3) and 115.242(4) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 	<p>Total Assessed: \$10,297</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$797/\$9,500</p> <p>The Respondent paid \$797 of the administrative penalty. The remaining amount of \$9,500 shall be payable in 19 monthly payments of \$500 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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 performed the following corrective actions at the Station:</p> <ol style="list-style-type: none"> As of January 5, 2009, performed an annual test on the Stage II equipment; As of August 14, 2009, submitted records of the UST system overfill prevention equipment installation; As of April 22, 2009, submitted records of acceptable financial assurance; As of August 11, 2009, repaired gasoline leaks under the dispensers; and As of July 31, 2008, began conducting effective manual or automatic inventory control procedures for the UST system at the Station.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	25-Sep-2008		
	PCW	16-Nov-2009	Screening	26-Sep-2008
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	Hina Enterprises, Inc. dba OJS Mobil Mart
Reg. Ent. Ref. No.	RN101914026
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36683	No. of Violations	3
Docket No.	2008-1667-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Greimel
		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	\$6,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$1,500
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Notes: Enhancement for one NOV for same or similar violations and one previous 1660 order.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$1,152
 Approx. Cost of Compliance: \$2,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	16.3%	Adjustment	\$1,122
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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. 1.

Final Penalty Amount	\$7,997
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,997
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$7,997
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Screening Date 26-Sep-2008 **Docket No.** 2008-1667-PST-E
Respondent Hina Enterprises, Inc. dba OJS Mobil Mart
Case ID No. 36683
Reg. Ent. Reference No. RN101914026
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

PCW

Policy Revision 2 (September 2002)
 PCW Revision June 12, 2008

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> 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 NOV for same or similar violations and one previous 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 26-Sep-2008 Docket No. 2008-1667-PST-E PCW

Respondent Hina Enterprises, Inc. dba OJS Mobil Mart Policy Revision 2 (September 2002)

Case ID No. 36683 PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101914026

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

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 or upon major system replacement or modification, whichever occurs first. Specifically, no annual test has been conducted in the past year.

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

\$2,500

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$2,500

One annual event is recommended for the 12-month period preceding the June 30, 2008 investigation.

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 \$1,122

Violation Final Penalty Total \$3,635

This violation Final Assessed Penalty (adjusted for limits) \$3,635

Economic Benefit Worksheet

Respondent Hina Enterprises, Inc. dba OJS Mobil Mart

Case ID No. 36683

Reg. Ent. Reference No. RN101914026

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)

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	30-Jun-2007	5-Jan-2009	2.44	\$122	\$1,000	\$1,122
ONE-TIME avoided costs [4]				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for conducting the required Stage II annual testing. The Date Required is one year prior to the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance \$1,000

TOTAL \$1,122

Screening Date 26-Sep-2008 **Docket No.** 2008-1667-PST-E **PCW**
Respondent Hina Enterprises, Inc. dba OJS Mobil Mart *Policy Revision 2 (September 2002)*
Case ID No. 36683 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101914026
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)(2)(B)
Violation Description Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, records regarding UST system overfill prevention equipment installation and design and financial assurance were not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			
					10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000
\$1,000

Violation Events

Number of Violation Events 1 59 Number of violation days
 mark only one with an x
 daily
 monthly
 quarterly
 semiannual
 annual
 single event x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the June 30, 2008 investigation.

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 \$28 **Violation Final Penalty Total** \$1,454

This violation Final Assessed Penalty (adjusted for limits) \$1,454

Economic Benefit Worksheet

Respondent Hina Enterprises, Inc. dba OJS Mobil Mart

Case ID No. 36683

Reg. Ent. Reference No. RN101914026

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$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	30-Jun-2008	14-Aug-2009	1.12	\$28	n/a	\$28
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 the UST records. Date Required is the date of the investigation. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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 \$28

Screening Date 26-Sep-2008 **Docket No.** 2008-1667-PST-E **PCW**
Respondent Hina Enterprises, Inc. dba OJS Mobil Mart *Policy Revision 2 (September 2002)*
Case ID No. 36683 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101914026
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)

Violation Description Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Station. Specifically, proper monthly reconciliation of inventory control records was not being conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> 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

\$2,500

Violation Events

Number of Violation Events 1 31 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the June 30, 2008 investigation date to the July 31, 2008 date of compliance.

Good Faith Efforts to Comply 25.0% Reduction \$625

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

Notes The respondent came into compliance on July 31, 2008.

Violation Subtotal \$1,875

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

Estimated EB Amount \$2 **Violation Final Penalty Total** \$2,908

This violation Final Assessed Penalty (adjusted for limits) \$2,908

Economic Benefit Worksheet

Respondent Hina Enterprises, Inc. dba OJS Mobil Mart

Case ID No. 36683

Reg. Ent. Reference No. RN101914026

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)	\$500	30-Jun-2008	31-Jul-2008	0.08	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. The Date Required is the effective date of the agreed order. 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

TOTAL



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	10-Aug-2009			
	PCW	16-Nov-2009	Screening	20-Aug-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Hina Enterprises, Inc. dba OJS Mobil Mart				
Reg. Ent. Ref. No.	RN101914026				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	36683	No. of Violations	2		
Docket No.	2008-1667-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Thomas Greimel		
		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	\$2,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$500
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Notes: Enhancement for one NOV for same or similar violations and one previous 1660 order.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$200
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$3
Approx. Cost of Compliance: \$1,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,300
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$2,300
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,300
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$2,300
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Screening Date 20-Aug-2009 **Docket No.** 2008-1667-PST-E
Respondent Hina Enterprises, Inc. dba OJS Mobil Mart
Case ID No. 36683
Reg. Ent. Reference No. RN101914026
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

PCW

Policy Revision 2 (September 2002)
 PCW Revision June 12, 2008

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 25%

>> 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 NOV for same or similar violations and one previous 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 20-Aug-2009 Docket No. 2008-1667-PST-E PCW

Respondent Hina Enterprises, Inc. dba OJS Mobil Mart Policy Revision 2 (September 2002)

Case ID No. 36683 PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101914026

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 1
 Rule Cite(s) 30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)

Violation Description Failed to ensure that all spill and overflow prevention devices are maintained in good operating condition and are inspected and serviced as per manufacturer's specifications. Specifically, overflow prevention equipment was not installed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential	x		10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

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 16 Number of violation days

mark only one with an x	daily	
	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 29, 2009 investigation to the August 14, 2009 compliance date.

Good Faith Efforts to Comply 10.0% Reduction \$100

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

Notes The Respondent came into compliance on August 14, 2009.

Violation Subtotal \$900

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

Economic Benefit Worksheet

Respondent Hina Enterprises, Inc. dba OJS Mobil Mart

Case ID No. 36683

Reg. Ent. Reference No. RN101914026

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	\$500	29-Jul-2009	14-Aug-2009	0.04	\$0	\$1	\$2
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 overfill prevention equipment. Date Required is the investigation date. 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
ONE-TIME avoided costs [4]				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$2

Screening Date 20-Aug-2009 **Docket No.** 2008-1667-PST-E **PCW**
Respondent Hina Enterprises, Inc. dba OJS Mobil Mart *Policy Revision 2 (September 2002)*
Case ID No. 36683 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101914026
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 115.222(3) and 115.242(4) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to comply with vapor control requirements by failing to eliminate any avoidable gasoline leaks, as detected by sight, sound, or smell, anywhere in the liquid transfer or vapor balance system. Specifically, gasoline leaks were observed underneath dispenser nos. 1, 2, 3, 4, 7 and 8 during July 29, 2009 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential	Percent	10%
	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 13 Number of violation days
 daily []
 monthly []
mark only one with an x 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 29, 2009 investigation to the August 11, 2009 compliance date.

Good Faith Efforts to Comply 10.0% Reduction \$100

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

Notes The Respondent came into compliance on August 11, 2009.

Violation Subtotal \$900

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

Estimated EB Amount \$1 **Violation Final Penalty Total** \$1,150

This violation Final Assessed Penalty (adjusted for limits) \$1,150

Economic Benefit Worksheet

Respondent Hina Enterprises, Inc. dba OJS Mobil Mart

Case ID No. 36683

Reg. Ent. Reference No. RN101914026

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$500	29-Jul-2009	11-Aug-2009	0.04	\$0	\$1	\$1
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 repair the leaking dispensers. Date Required is the investigation date. 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 \$1

Compliance History

Customer/Respondent/Owner-Operator: CN603065236 Hina Enterprises, Inc. Classification: AVERAGE Rating: 25.17
Regulated Entity: RN101914026 OJS Mobil Mart Classification: POOR Site Rating: 47.33
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 73347
REGISTRATION
Location: 9508 HIGHWAY 12, ORANGE, TX, 77632 Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: September 30, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 30, 2003 to September 30, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Thomas Greimel Phone: (512) 239-5690

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

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: 02/08/2008 ADMINORDER 2007-1193-PST-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
Description: Field Citation- Failure to provide release detection. A12(h)(6)
Classification: Major
Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)
Description: Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Facility.
- 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.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING HINA	§	TEXAS COMMISSION ON
ENTERPRISES, INC. DBA OJS	§	
MOBIL MART; RN101914026	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1667-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Hina Enterprises, Inc. dba OJS Mobil Mart (“Hina Enterprises”) under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Hina Enterprises appear before the Commission and together stipulate that:

1. Hina Enterprises owns and operates a convenience store with retail sales of gasoline located at 9508 Highway 12, Orange, Orange County, Texas (the “Station”).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The Commission and Hina Enterprises agree that the Commission has jurisdiction to enter this Agreed Order, and that Hina Enterprises is subject to the Commission's jurisdiction.
4. Hina Enterprises received notice of the violations alleged in Section II paragraphs 1.a. through 1.c. on or about August 11, 2008. Hina Enterprises received notice of the violations alleged in Section II paragraphs 2.a. and 2.b. on or about August 9, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Hina Enterprises of any violation alleged in Section II (“Allegations”), nor of any statute or rule.

6. An administrative penalty in the amount of ten thousand two hundred ninety-seven dollars (\$10,297.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Hina Enterprises paid seven hundred ninety-seven dollars (\$797.00) of the administrative penalty. The remaining amount of nine thousand five hundred dollars (\$9,500.00) of the administrative penalty shall be payable in 19 monthly payments of five hundred dollars (\$500.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Hina Enterprises fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Hina Enterprises’ failure to meet the payment schedule of this Agreed Order constitutes the failure by Hina Enterprises to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Hina Enterprises 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 Hina Enterprises implemented the following corrective measures at the Station in response to this enforcement action:
 - a. As of January 5, 2009, performed an annual test on the Stage II equipment;
 - b. As of August 14, 2009, submitted records of the UST system overfill prevention equipment installation;
 - c. As of April 22, 2009, submitted records of acceptable financial assurance;
 - d. As of August 11, 2009, repaired gasoline leaks under dispenser nos. 1, 2, 3, 4, 7, and 8; and
 - e. As of July 31, 2008, began conducting effective manual or automatic inventory control procedures for the UST system at the Station.

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 Hina Enterprises 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

1. During an investigation conducted on June 30, 2008, a TCEQ Beaumont Regional Office investigator documented that Hina Enterprises violated:
 - a. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first. Specifically, no annual test had been conducted in the past year.
 - b. 30 TEX. ADMIN. CODE § 334.10(b)(2)(B) by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, records of the UST system overfill prevention equipment installation and design and financial assurance were not available for review.
 - c. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST system at the Station. Specifically, proper monthly reconciliation of inventory control records was not being conducted.
2. During an investigation conducted on July 29, 2009, a TCEQ Beaumont Regional Office investigator documented that Hina Enterprises violated:
 - a. 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2) by failing to ensure that all spill and overfill prevention devices are maintained in good operating condition and are inspected and serviced as per manufacturer’s specifications. Specifically, overfill prevention equipment was not installed.

- b. 30 TEX. ADMIN. CODE § 115.222(3) and 115.242(4) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to comply with vapor control requirements by failing to eliminate any avoidable gasoline leaks, as detected by sight, sound, or smell, anywhere in the liquid transfer or vapor balance system. Specifically, gasoline leaks were observed underneath dispenser nos. 1, 2, 3, 4, 7, and 8.

III. DENIALS

Hina Enterprises generally denies each allegation in Section II (“Allegations”).

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Hina Enterprises pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Hina Enterprises’ compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Hina Enterprises, Inc. dba OJS Mobil Mart, Docket No. 2008-1667-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. The provisions of this Agreed Order shall apply to and be binding upon Hina Enterprises. Hina Enterprises 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against Hina Enterprises 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.

4. 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.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Hina Enterprises, or three days after the date on which the Commission mails notice of the Order to Hina Enterprises, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Hina Enterprises, Inc. dba OJS Mobil Mart
Docket No. 2008-1667-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



2/24/2010

For the Executive Director

Date

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

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

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

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

Signature

Date

Director

Title

Mohammad Sultan
Authorized representative of
Hina Enterprises, Inc. dba OJS Mobil Mart

12/05/09