

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-1611-PST-E **TCEQ ID:** RN102035367 **CASE NO.:** 38477
RESPONDENT NAME: Uppal Bros., Inc. dba Save Way Food Mart

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Save Way Food Mart, 6620 Brentwood Stair Road, Fort Worth, Tarrant County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on May 19, 2009, alleging that water was found in the gas tank of the complainant's car after refueling at the Respondent's facility. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 15, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Elvia Maske, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0789; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Rashpal Singh, President/Registered Agent, Uppal Bros., Inc., 1501 Knoll Ridge Circle, Corinth, Texas 76210-1904 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: May 19, 2009</p> <p>Date of Investigation Relating to this Case: June 17, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 28, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WASTE</p> <p>1) Failure to monitor underground storage tanks ("USTs") for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Specifically, the Respondent did not have the automatic tank gauge performing the required tests [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failure to provide release detection for the UST system by failing to conduct reconciliation of inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>4) Failure to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, bimonthly inspection records of the spill buckets were not available for review [30 TEX. ADMIN. CODE § 334.10(b)].</p>	<p>Total Assessed: \$13,682</p> <p>Total Deferred: \$2,736 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$306 (remaining \$10,640 due in 35 monthly payments of \$304 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 type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted documentation to the TCEQ Regional Office demonstrating monthly automatic tank gauge testing, with passing results on July 3, 2009; and</p> <p>b. Submitted documentation to the TCEQ Regional Office demonstrating monthly inventory control procedures and reconciliation of inventory control records on July 3, 2009.</p> <p>Ordering Provisions:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin conducting bimonthly inspections of the cathodic protection system for the active UST and conduct the required triennial testing of the cathodic protection system;</p> <p>ii. Begin maintaining all UST records to include spill and overfill bimonthly inspection records; and</p> <p>iii. Permanently apply or affix tags, labels, or markings to the UST fill tubes with an identification number that matches the number listed on the UST registration and self-certification form.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through a.iii.</p>

<p>5) Failure to ensure that a legible tag, label, or marking with tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>6) Failure to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</p>		
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Additional ID No(s): 44704



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	3-Aug-2009	Screening	28-Aug-2009	EPA Due	
	PCW	24-Sep-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Uppal Bros., Inc. dba Save Way Food Mart		
Reg. Ent. Ref. No.	RN102035367		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38477	No. of Violations	5
Docket No.	2009-1611-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Elvia Maske
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes: Enhancement for one Agreed Order containing a denial of liability, one Default Order, one NOV for dissimilar violations, and due to poor performer classification.

Culpability Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

Total EB Amounts
 Approx. Cost of Compliance
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 28-Aug-2009

Docket No. 2009-1611-PST-E

PCW

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Policy Revision 2 (September 2002)

Case ID No. 38477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102035367

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

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)	0	0%
	Other written NOVs	1	2%
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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one Agreed Order containing a denial of liability, one Default Order, one NOV for dissimilar violations, and due to poor performer classification.

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

Screening Date 28-Aug-2009

Docket No. 2009-1611-PST-E

PCW

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Policy Revision 2 (September 2002)

Case ID No. 38477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102035367

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (d)(1)(B)(II), and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor underground storage tanks (USTs) for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Specifically, the Respondent did not have the automatic tank gauge performing the required tests. Also, failed to provide release detection for the UST system by failing to conduct reconciliation of inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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 Number of violation days 16

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the June 17, 2009 investigation to the July 3, 2009 compliance date.

Good Faith Efforts to Comply

25.0% Reduction \$625

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

Notes The Respondent achieved compliance on July 3, 2009, prior to the NOE dated July 28, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Estimated EB Amount \$3

Statutory Limit Test

Violation Final Penalty Total \$3,304

This violation Final Assessed Penalty (adjusted for limits) \$3,304

Economic Benefit Worksheet

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Case ID No. 38477

Reg. Ent. Reference No. RN102035367

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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	17-Jun-2009	3-Jul-2009	0.04	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to provide a release detection method for the USTs including reconciliation of inventory control records. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$3

Screening Date 28-Aug-2009

Docket No. 2009-1611-PST-E

PCW

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Policy Revision 2 (September 2002)

Case ID No. 38477

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102035367

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.49(c)(2)(C) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other components are operating properly.

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 this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 72 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on the documentation of the violation during June 17, 2009 investigation to the August 28, 2009 screening date.

Good Faith Efforts to Comply

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

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$17

Statutory Limit Test

Violation Final Penalty Total \$3,930

This violation Final Assessed Penalty (adjusted for limits) \$3,930

Economic Benefit Worksheet

Respondent Uppal Bros., inc. dba Save Way Food Mart
Case ID No. 38477
Reg. Ent. Reference No. RN102035367
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$100	18-Apr-2009	17-Jun-2009	0.16	\$1	\$16	\$17
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

Estimated avoided cost for conducting bimonthly inspections. The date required is 60 days before the investigation date and final date is the investigation date.

Approx. Cost of Compliance

\$100

TOTAL

\$17

Screening Date 28-Aug-2009

Docket No. 2009-1611-PST-E

PCW

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Policy Revision 2 (September 2002)

Case ID No. 38477

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102035367

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.10(b)

Violation Description

Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, bimonthly inspection records of the spill buckets were not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

72 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the June 17, 2009 investigation date.

Good Faith Efforts to Comply

	0.0% Reduction	
	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 \$18

Violation Final Penalty Total \$1,572

This violation Final Assessed Penalty (adjusted for limits) \$1,572

Economic Benefit Worksheet

Respondent Uppal Bros., Inc. dba Save Way Food Mart
Case ID No. 38477
Reg. Ent. Reference No. RN102035367
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	17-Jun-2009	1-Mar-2010	0.70	\$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 UST records. Date required is the investigation date and final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$18

Screening Date 28-Aug-2009

Docket No. 2009-1611-PST-E

PCW

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Policy Revision 2 (September 2002)

Case ID No. 38477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102035367

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 4

Rule Cite(s)

30 Tax. Admin. Code § 334.8(c)(5)(C)

Violation Description

Failed to ensure that a legible tag, label, or marking with tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 72

mark only one with an x	daily	
	weekly	
	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 17, 2009 investigation.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDCRP/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 \$4

Violation Final Penalty Total \$1,572

This violation Final Assessed Penalty (adjusted for limits) \$1,572

Economic Benefit Worksheet

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Case ID No. 38477

Reg. Ent. Reference No. RN102035367

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	17-Jun-2009	1-Mar-2010	0.70	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to permanently label the UST fill ports. Date required is the investigation date and final date is the expected 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

\$100

TOTAL

\$4

Screening Date 28-Aug-2009

Docket No. 2009-1611-PST-E

PCW

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Policy Revision 2 (September 2002)

Case ID No. 38477

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102035367

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 5

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.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 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 this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

18 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the June 17, 2009 investigation to the July 3, 2009 compliance date.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDRP/Settlement Offer

\$625

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent achieved compliance on July 3, 2009, prior to the NOE dated July 28, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,304

This violation Final Assessed Penalty (adjusted for limits) \$3,304

Economic Benefit Worksheet

Respondent Uppal Bros., Inc. dba Save Way Food Mart

Case ID No. 38477

Reg. Ent. Reference No. RN102035367

Media Petroleum Storage Tank

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	17-Jun-2009	3-Jul-2009	0.04	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct effective inventory control procedures. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN601107444 Uppal Bros., Inc. Classification: POOR Rating: 132.00
Regulated Entity: RN102035367 Save Way Food Mart Classification: POOR Site Rating: 132.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 44704
REGISTRATION
Location: 6620 BRENTWOOD STAIR RD, FORT WORTH, TX, 76112
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: August 28, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 28, 2004 to August 28, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Elvia Maske Phone: (512) 239 - 0789

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 08/28/2004 ADMINORDER 2003-0997-PST-E
Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)
Description: Failure to demonstrate acceptable financial assurance.

Effective Date: 05/11/2007 ADMINORDER 2003-1165-PST-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)

30 TAC Chapter 334, SubChapter C 334.49(a)

Description: Failed to install a method of corrosion protection for the UST systems.

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)

30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental release arising from the operation of petroleum USTs.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(c)

Description: Failed to conduct effective manual or automatic inventory control procedures for the UST systems.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)

30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.346(c)(3)
30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vii)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(B)(ii)

Description: Failed to timely renew the delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs.

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 03/30/2007 (541490)
2 07/17/2007 (567878)
3 01/09/2008 (609157)

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

Date: 01/09/2008 (609157)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to conduct annual testing by the due date of September 30, 2007.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
UPPAL BROS., INC. DBA SAVE WAY
FOOD MART
RN102035367**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1611-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Uppal Bros., Inc. dba Save Way Food Mart ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 6620 Brentwood Stair Road in Fort Worth, Tarrant County, Texas (the "Facility").
2. The Respondent's five underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 2, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirteen Thousand Six Hundred Eighty-Two Dollars (\$13,682) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Six Dollars (\$306) of the

administrative penalty and Two Thousand Seven Hundred Thirty-Six Dollars (\$2,736) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Ten Thousand Six Hundred Forty Dollars (\$10,640) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Four Dollars (\$304) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Submitted documentation to the TCEQ Regional Office demonstrating monthly automatic tank gauge testing, with passing results on July 3, 2009; and
 - b. Submitted documentation to the TCEQ Regional Office demonstrating monthly inventory control procedures and reconciliation of inventory control records on July 3, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on June 17, 2009. Specifically, the Respondent did not have the automatic tank gauge performing the required tests.
2. Failed to provide release detection for the UST system by failing to conduct reconciliation of inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii), and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on June 17, 2009.
3. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on June 17, 2009.
4. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on June 17, 2009. Specifically, bimonthly inspection records of the spill buckets were not available for review.
5. Failed to ensure that a legible tag, label, or marking with tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on June 17, 2009.
6. Failed to conduct effective manual or automatic inventory control procedures for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on June 17, 2009.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Uppal Bros., Inc. dba Save Way Food Mart, Docket No. 2009-1611-PST-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin conducting bimonthly inspections of the cathodic protection system for the active UST and conduct the required triennial testing of the cathodic protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - ii. Begin maintaining all UST records, to include spill and overfill bimonthly inspection records, in accordance with 30 TEX. ADMIN. CODE § 334.10; and
 - iii. Permanently apply or affix tags, labels, or markings to the UST fill tubes with an identification number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Zoller

For the Executive Director

2/25/2010

Date

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

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

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

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

Rafal

Signature

12-16-09

Date

RASHPAL SINGH

Name (Printed or typed)
Authorized Representative of
Uppal Bros., Inc. dba Save Way Food Mart

PRESIDENT

Title

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