

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO. 2009-0963-PST-E TCEQ ID RN103961546 CASE NO. 37836**  
**RESPONDENT NAME: JOHN PLATIS DBA SOUTH MAIN DIAMOND**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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 VIOLATION(S) OCCURRED:** 14647 Main Street, Houston, Harris County

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

**SMALL BUSINESS:**  Yes  No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired April 12, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Mr. Michael Meyer, Waste Enforcement Section, MC 128, (512) 239-4492

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

**Regional Contact:** Mr. Craig Green, Investigator, Petroleum Storage Tank and Stage II Team, University of Texas – Arlington, Operations Centers Bldg., 1851 Crosspoint Suite 1270, Houston, Texas 77054-3709

**Respondent:** Mr. John Platis, Owner, South Main Diamond, 12003 Briar Forest Drive, Houston, TX 77077

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

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 27, 2009</p> <p><b>Date of NOE Relating to this Case:</b> May 30, 2009</p> <p><b>Background Facts:</b> The case was referred to the Litigation Division on December 4, 2009. Settlement was achieved and the agreed order was signed on February 1, 2010.</p> <p><b>Current Compliance Status:</b> The Respondent has not yet submitted documentation to certify compliance. The Respondent's delivery certificate expired in April 2008.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems; failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(1)(C) and (3), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to maintain Stage II records at the Station [30 TEX. ADMIN. CODE § 115.246(6) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> </ol>	<p><b>Total Assessed:</b> \$10,096</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$296/\$9,800</p> <p>The Respondent paid \$296 of the administrative penalty. The remaining amount of \$9,800 shall be payable in 35 monthly payments of \$280 each.</p> <p><b>Site Compliance History Classification:</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, begin maintaining all Stage II records at the Station.</li> <li>Within 30 days: <ol style="list-style-type: none"> <li>Conduct the required annual testing of the Stage II equipment; and</li> <li>Begin maintaining the Stage II vapor recovery system in proper operating condition including, but not limited to upgrading the Stage II equipment to ORVR compatible systems, conducting successful Stage II vapor recovery tests after completing the ORVR upgrade, and installing swivel adaptors.</li> </ol> </li> <li>Within 45 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	8-Jun-2009			
	<b>PCW</b>	30-Nov-2009	<b>Screening</b>	22-Jun-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	John Platis dba South Main Diamond				
<b>Reg. Ent. Ref. No.</b>	RN103961546				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	37836	<b>No. of Violations</b>	3		
<b>Docket No.</b>	2009-0963-PST-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Michael Meyer		
		<b>EC's Team</b>	Enforcement Team 7		
<b>Admin. Penalty \$ Limit</b>	<b>Minimum</b>	\$0	<b>Maximum</b>	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,000
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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.

<b>Compliance History</b>	-10.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	-\$1,000
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Notes: Reduction for high performer classification.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,256	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,500	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$9,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	12.2%	<b>Adjustment</b>	\$1,096
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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.

<b>Final Penalty Amount</b>	\$10,096
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,096
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$10,096
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**Screening Date** 22-Jun-2009

**Docket No.** 2009-0963-PST-E

**PCW**

**Respondent** John Platis dba South Main Diamond

*Policy Revision 2 (September 2002)*

**Case ID No.** 37836

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN103961546

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Michael Meyer

### Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action ( <i>number of NOV's meeting criteria</i> )	0	0%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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)** 0%

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

No

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

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

High Performer

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

>> **Compliance History Summary**

**Compliance History Notes** Reduction for high performer classification.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

**Screening Date** 22-Jun-2009 **Docket No.** 2009-0963-PST-E **PCW**  
**Respondent** John Platis dba South Main Diamond *Policy Revision 2 (September 2002)*  
**Case ID No.** 37836 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN103961546  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Michael Meyer

**Violation Number**   
**Rule Cite(s)**   
**Violation Description**   
**Base Penalty**

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

OR	<b>Harm</b>			Percent <input type="text" value="50%"/>
	Major	Moderate	Minor	
	Actual <input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential <input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days  
 mark only one with an x  

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text" value="x"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**   
**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** John Platis dba South Main Diamond  
**Case ID No.** 37836  
**Reg. Ent. Reference No.** RN103961546  
**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	27-May-2008	27-May-2009	1.92	\$96	\$1,000	\$1,096
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for annual testing to verify proper operation of the Stage II equipment. The date required is one year prior to the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,096

**Screening Date** 22-Jun-2009 **Docket No.** 2009-0963-PST-E **PCW**  
**Respondent** John Platis dba South Main Diamond *Policy Revision 2 (September 2002)*  
**Case ID No.** 37836 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN103961546  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Michael Meyer

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code § 115.242(1)(C) and 115.242(3) and Tex. Health & Safety Code & 382.085(b)

**Violation Description**  
 Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Also, failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, swivel adaptors were not installed.

**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 significant amounts of pollutants which would exceed not 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 26 Number of violation days

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

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

One quarterly event is recommended based on documentaion of the violation during the May 27, 2009 investigation to the June 22, 2009 screening date.

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

	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** **Statutory Limit Test**

**Estimated EB Amount** \$143 **Violation Final Penalty Total** \$2,524

**This violation Final Assessed Penalty (adjusted for limits)** \$2,524

## Economic Benefit Worksheet

**Respondent** John Platis dba South Main Diamond  
**Case ID No.** 37836  
**Reg. Ent. Reference No.** RN103961546  
**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	\$3,000	27-May-2009	31-Jan-2010	0.68	\$7	\$136	\$143
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 upgrade the Stage II equipment to ORVR compatible systems and to install swivel adaptors. The date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

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

\$3,000

**TOTAL**

\$143

**Screening Date** 22-Jun-2009 **Docket No.** 2009-0963-PST-E **PCW**  
**Respondent** John Platis dba South Main Diamond *Policy Revision 2 (September 2002)*  
**Case ID No.** 37836 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN103961546  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Michael Meyer

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 115.246(6) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to maintain Stage II records at the Station. Specifically, Stage II daily inspection records were not available for review.  
**Base Penalty** \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			25%

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

**Adjustment** \$7,500

**Subtotal** \$2,500

**Violation Events**

Number of Violation Events: 1      26 Number of violation days

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

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

One single event is recommended based on documentation of the violation during the May 27, 2009 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 \$17      Violation Final Penalty Total \$2,524

**This violation Final Assessed Penalty (adjusted for limits)** \$2,524

## Economic Benefit Worksheet

**Respondent** John Platis dba South Main Diamond  
**Case ID No.** 37836  
**Reg. Ent. Reference No.** RN103961546  
**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	\$500	27-May-2009	31-Jan-2010	0.68	\$17	n/a	\$17
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. The date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

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**

\$17

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602510265 PLATIS, JOHN Classification: HIGH Rating: 0.00  
Regulated Entity: RN103961546 SOUTH MAIN DIAMOND Classification: HIGH Site Rating: 0.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 71362  
REGISTRATION  
Location: 14647 MAIN ST, HOUSTON, TX, 77035  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: January 13, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 10, 2004 to July 10, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michael Meyer Phone: 239 - 4492

## 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: 9/1/2009 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.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 08/05/2004 (281461)  
2 05/30/2009 (747218)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - 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  
JOHN PLATIS DBA  
SOUTH MAIN DIAMOND  
RN103961546**

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

**AGREED ORDER  
DOCKET NO. 2009-0963-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 John Platis dba South Main Diamond (“Mr. Platis”) under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Platis appear before the Commission and together stipulate that:

1. Mr. Platis owns and operates a convenience store with retail sales of gasoline at 14647 Main Street in Houston, Harris County, Texas (the “Station”). The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Mr. Platis agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Platis is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Platis of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of ten thousand ninety-six dollars (\$10,096.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Mr. Platis paid two hundred ninety-six dollars (\$296.00) of the administrative penalty. The remaining amount of nine thousand eight hundred dollars (\$9,800.00) of the administrative penalty shall be payable in 35 monthly payments of two

hundred eighty dollars (\$280.00) 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 Mr. Platis 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, Mr. Platis' failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Platis to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Mr. Platis agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. 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 Mr. Platis has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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 May 27, 2009, a University of Texas at Arlington Stage II Houston office investigator documented that Mr. Platis 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. Specifically, the Stage II annual compliance testing had not been conducted.
  - b. 30 TEX. ADMIN. CODE § 115.242(1)(C), (3) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Also, by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, swivel adaptors were not installed.

- c. 30 TEX. ADMIN. CODE § 115.246(6) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain Stage II records at the Station. Specifically, Stage II daily inspection records were not available for review.
2. Mr. Platis received notice of the violations on or about June 4, 2009.

### **III. DENIALS**

Mr. Platis generally denies each allegation in Section II (“Allegations”).

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Mr. Platis pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Mr. Platis’ 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: John Platis dba South Main Diamond, Docket No. 2009-0963-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. Mr. Platis shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Mr. Platis shall begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246.
  - b. Within 30 days after the effective date of this Agreed Order, Mr. Platis shall:
    - i. Conduct the required annual testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and
    - ii. Begin maintaining the Stage II vapor recovery system in proper operating condition including, but not limited to, upgrading the Stage II equipment to ORVR compatible systems, conducting successful Stage II vapor recovery tests after completing the ORVR upgrade, and installing swivel adaptors, in accordance with 30 TEX. ADMIN. CODE § 115.245.

- c. Within 45 days after the effective date of this Agreed Order, Mr. Platis shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Mr. Platis shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. to:

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

and

Nicole Bealle, Waste Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Street, Suite H  
Houston, Texas 79023-1452

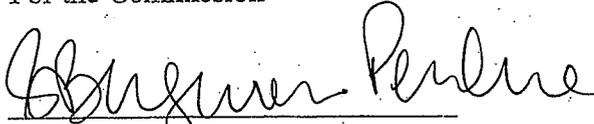
3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Platis. Mr. Platis is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If Mr. Platis fails to comply with any of the Ordering 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, Mr. Platis' failure to comply is not a violation of this Agreed Order. Mr. Platis shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Platis shall notify the Executive Director within seven days after Mr. Platis 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 Mr. Platis shall be made in writing to the Executive Director. Extensions are not effective until Mr. Platis 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 Mr. Platis 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.
8. 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 Agreed Order to Mr. Platis, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Platis, 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



3/8/2010

For the Executive Director

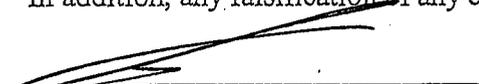
Date

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 Mr. Platis' compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Platis;
- 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 Mr. Platis;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Platis; and
- TCEQ seeking other relief as authorized by law.

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

  
Signature

2-1-10  
Date

John Platis  
Name (Printed or typed)

owner  
Title

Authorized representative of  
John Platis dba South Main Diamond