

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-1285-PST-E TCEQ ID: RN102446721 CASE NO.: 38124  
RESPONDENT NAME: JAVERIA ENTERPRISES, INC. DBA BEST FOOD MARKET**

|   |  |  |
|---|--|--|
| <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 VIOLATIONS OCCURRED:** 5402 Nordling Road, 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 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 26, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Ms. Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

**TCEQ Enforcement Coordinator:** Mr. Ross Fife, Waste Enforcement Section, MC 128, (512) 239-2541

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

**Respondent:** Mr. Sadoor Khan, President and Director, Javeria Enterprises, Inc. dba Best Food Market, 707 North Wayside Drive, Houston, Texas 77011 and Mr. Masroor Ahmed, Director and Registered Agent, Javeria Enterprises, Inc. dba Best Food Market, 12327 Ashford Meadows, Sugarland, Texas 77478

**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><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b><br/>None</p> <p><b>Date of Investigation Relating to this Case:</b><br/>July 9, 2009</p> <p><b>Date of NOE Relating to this Case:</b><br/>July 21, 2009</p> <p><b>Background Facts:</b><br/>The EDPRP was filed on January 8, 2010. The agreed order was signed on February 5, 2010.</p> <p><b>Current Compliance Status:</b><br/>No outstanding technical requirements.</p> <p><b>PST:</b><br/>Failed to verify proper operation of 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)].</p> | <p><b>Total Assessed:</b> \$2,560</p> <p><b>Total Deferred:</b> \$0<br/> <input type="checkbox"/> Expedited Order<br/> <input type="checkbox"/> Financial Inability to Pay<br/> <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b><br/>\$217/\$2,343</p> <p>The Respondent paid \$217 of the administrative penalty. The remaining amount of \$2,343 shall be paid in 11 monthly payments of \$213 each.</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Action Taken:</b><br/>The Executive Director recognizes that the Respondent conducted its Stage II annual system compliance testing on July 9, 2009.</p> |



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

|              |                 |             |                  |            |                |
|--------------|-----------------|-------------|------------------|------------|----------------|
| <b>DATES</b> | <b>Assigned</b> | 3-Aug-2009  |                  |            |                |
|              | <b>PCW</b>      | 14-Dec-2009 | <b>Screening</b> | 7-Aug-2009 | <b>EPA Due</b> |

|  |  |                           |       |  |  |
|--|--|---------------------------|-------|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |  |                           |       |  |  |
| <b>Respondent</b>                      | Javeria Enterprises, Inc. dba Best Food Market |                           |       |  |  |
| <b>Reg. Ent. Ref. No.</b>              | RN102446721                                    |                           |       |  |  |
| <b>Facility/Site Region</b>            | 12-Houston                                     | <b>Major/Minor Source</b> | Minor |  |  |

|  |                        |                              |                    |  |  |
|--|------------------------|------------------------------|--------------------|--|--|
| <b>CASE INFORMATION</b>                |                        |                              |                    |  |  |
| <b>Enf./Case ID No.</b>                | 38124                  | <b>No. of Violations</b>     | 1                  |  |  |
| <b>Docket No.</b>                      | 2009-1285-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>      | Ross Fife          |  |  |
|  |                        | <b>EC's Team</b>             | Enforcement Team 6 |  |  |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0                    | <b>Maximum</b>               | \$10,000           |  |  |

## Penalty Calculation Section

|   |                   |         |
|---|-------------------|---------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$2,500 |
|---|-------------------|---------|

### 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> | 5.0% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | \$125 |
|---------------------------|------------------|--------------------------------|-------|

Notes: Enhancement for one NOV with same or similar violation.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |       |
|--|-------------------|-------|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$625 |
|--|-------------------|-------|

|                         |                   |                   |     |
|-------------------------|-------------------|-------------------|-----|
| <b>Economic Benefit</b> | 0.0% Enhancement* | <b>Subtotal 6</b> | \$0 |
|-------------------------|-------------------|-------------------|-----|

|                            |       |
|----------------------------|-------|
| Total EB Amounts           | \$560 |
| Approx. Cost of Compliance | \$560 |

\*Capped at the Total EB \$ Amount

|                             |                       |         |
|-----------------------------|-----------------------|---------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$2,000 |
|-----------------------------|-----------------------|---------|

|   |       |                   |       |
|---|-------|-------------------|-------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 28.0% | <b>Adjustment</b> | \$560 |
|---|-------|-------------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with the violation.

**Final Penalty Amount** \$2,560

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$2,560 |
|-----------------------------------|-------------------------------|---------|

|                 |                |                   |     |
|-----------------|----------------|-------------------|-----|
| <b>DEFERRAL</b> | 0.0% Reduction | <b>Adjustment</b> | \$0 |
|-----------------|----------------|-------------------|-----|

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> | \$2,560 |
|------------------------|---------|

Screening Date 7-Aug-2009

Docket No. 2009-1285-PST-E

PCW

Respondent Javeria Enterprises, Inc. dba Best Food Market

Policy Revision 2 (September 2002)

Case ID No. 38124

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102446721

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Ross Fife

### 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)   | 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 (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%      |
| Please Enter Yes or No        |  |                   |         |
| 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) 5%

#### >> 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 with same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

**Screening Date** 7-Aug-2009 **Docket No.** 2009-1285-PST-E **PCW**  
**Respondent** Javeria Enterprises, Inc. dba Best Food Market *Policy Revision 2 (September 2002)*  
**Case ID No.** 38124 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102446721  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Ross Fife

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

| OR | Release   | Harm                           |                      |                      | Percent                          |
|----|-----------|--------------------------------|----------------------|----------------------|----------------------------------|
|    |           | Major                          | Moderate             | Minor                |                                  |
|    | Actual    | <input type="text"/>           | <input type="text"/> | <input type="text"/> | <input type="text" value="25%"/> |
|    | Potential | <input type="text" value="x"/> | <input type="text"/> | <input type="text"/> |                                  |

**>> Programmatic Matrix**

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

**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" value="x"/> | <input type="text"/>    |
| N/A           | <input type="text"/>           | (mark with x)           |

**Notes**

**Violation Subtotal**

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

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

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

## Economic Benefit Worksheet

**Respondent** Javeria Enterprises, Inc. dba Best Food Market  
**Case ID No.** 38124  
**Reg. Ent. Reference No.** RN102446721  
**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]    | \$560 | 26-Jun-2009 | 9-Jul-2009 | 0.00 | \$0 | \$560 | \$560 |
| Other (as needed)             |       |             |            | 0.00 | \$0 | \$0   | \$0   |

Notes for AVOIDED costs

Actual avoided cost for annual testing of the Stage II equipment per receipt submitted. The Date Required is the test due date. The Final Date is the compliance date.

Approx. Cost of Compliance \$560

**TOTAL** \$560

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602936478 Javeria Enterprises, Inc. Classification: AVERAGE Rating: 1.60  
 Regulated Entity: RN102446721 BEST FOOD MARKET Classification: AVERAGE Site Rating: 1.71  
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 41396  
 REGISTRATION  
 Location: 5402 NORDLING RD, HOUSTON, TX, 77076  
 TCEQ Region: REGION 12 - HOUSTON  
 Date Compliance History Prepared: August 05, 2009  
 Agency Decision Requiring Compliance History: Enforcement  
 Compliance Period: August 05, 2004 to August 05, 2009  
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
 Name: Ross Fife Phone: 512-239-2541

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Javeria Enterprises Inc
4. If Yes, who was/were the prior owner(s)/operator(s) ? OWNOPR Khyber, Inc.
5. When did the change(s) in owner or operator occur? 10/01/2006
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.  
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 | 01/13/2005 | (292357) |
| 2 | 04/11/2007 | (556115) |
| 3 | 05/08/2007 | (558142) |
| 4 | 06/01/2007 | (562170) |
| 5 | 12/01/2007 | (609911) |
| 6 | 07/21/2009 | (761952) |
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

|                  |   |                          |
|------------------|---|--------------------------|
| Date: 04/11/2007 | (556115)  | <b>CN602936478</b>       |
| Self Report?     | NO  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 115, SubChapter C 115.242(1)(C)  |                          |
| Description:     | 30 Tex. Admin. Code Section 115.242(1)(C) - Failure to equipped with a Stage II vapor recovery system certified by a California Air Resources Board (CARB) Executive Order in effect as of January 1, 2002 (as specified in §115.240(b) of this title (relating to Stage II Vapor Recovery Definitions.                           |                          |
| Self Report?     | NO  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 115, SubChapter C 115.242(3)   |                          |
| Description:     | 30 Tex. Admin. Code Section 115.242 (3) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.  |                          |
| Self Report?     | NO  | Classification: Moderate |
| Citation:        | 30 TAC Chapter 115, SubChapter C 115.245(2)   |                          |
| Description:     | Tex. Admin. Code Section 115.245 (2)- Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TX. |                          |
  - 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  
JAVERIA ENTERPRISES, INC.  
DBA BEST FOOD MARKET;  
RN102446721**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2009-1285-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 Javeria Enterprises, Inc. dba Best Food Market (“Javeria Enterprises”) 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 Javeria Enterprises appear before the Commission and together stipulate that:

1. Javeria Enterprises owns and operates a convenience store with retail sales of gasoline located at 5402 Nordling Road, 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 Javeria Enterprises agree that the Commission has jurisdiction to enter this Agreed Order and that Javeria Enterprises 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 Javeria Enterprises of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of two thousand five hundred sixty dollars (\$2,560.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Javeria Enterprises paid two hundred seventeen dollars (\$217.00) of the administrative penalty. The remaining amount of two thousand three hundred forty-three

dollars (\$2,343.00) of the administrative penalty shall be payable in 11 monthly payments of two hundred thirteen dollars (\$213.00) 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 Javeria 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, Javeria Enterprises' failure to meet the payment schedule of this Agreed Order constitutes the failure by Javeria Enterprises 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 Javeria Enterprises agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that Javeria Enterprises conducted its Stage II annual system compliance testing on July 9, 2009, at the Station.
9. 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 Javeria Enterprises has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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 July 9, 2009, a TCEQ University of Texas at Arlington investigator documented that Javeria Enterprises violated 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to verify proper operation of Stage II equipment at least once every 12 months. Specifically, the Stage II annual system compliance testing had not been conducted by the due date of June 26, 2009.
2. Javeria Enterprises received notice of the violation on or about July 26, 2009.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Javeria Enterprises pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and Javeria 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: Javeria Enterprises, Inc. dba Best Food Market, Docket No. 2009-1285-PST-E” to:

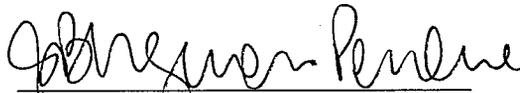
Financial Administration Division, Revenues Section  
Attention: Cashier’s Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Javeria Enterprises. Javeria 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 Javeria 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 Agreed Order to Javeria Enterprises, or three days after the date on which the Commission mails notice of this Agreed Order to Javeria Enterprises, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

3/19/2010

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

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

  
\_\_\_\_\_  
Signature

2-5-10  
\_\_\_\_\_  
Date

Sadoor Khan  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized representative of  
Javeria Enterprises, Inc. dba Best Food Market

President and Director  
\_\_\_\_\_  
Title