

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2009-1971-PST-E **TCEQ ID:** RN101737419 **CASE NO.:** 38809  
**RESPONDENT NAME:** M & F HOLDINGS, INC. dba Gas N More

<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 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Gas N More, 301 1st Street East, Humble, Harris County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 24, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Tate Barrett, Enforcement Division, Enforcement Team 7, MC R-12, (713) 422-8968; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Mike Hussain, President, M &amp; F HOLDINGS, INC., P.O. Box 40224, Houston, Texas 77240  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 29, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> November 24, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to maintain Stage II records at the Station. Specifically, a daily inspection log of the Stage II equipment was not being maintained [30 TEX. ADMIN. CODE § 115.246(6) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failure to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II triennial system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$7,268</p> <p><b>Total Deferred:</b> \$1,453  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$180 (remaining \$5,635 due in 35 monthly payments of \$161 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" 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>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Successfully conducted the required triennial testing of the Stage II equipment on October 29, 2009; and</p> <p>b. December 10, 2009, the TCEQ Houston Regional Office received documentation that the Respondent began maintaining daily inspection records at the Station.</p>

Additional ID No(s): 424



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	30-Nov-2009	Screening	1-Dec-2009	EPA Due	
	PCW	7-Dec-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	M & F HOLDINGS, INC. dba Gas N More		
Reg. Ent. Ref. No.	RN101737419		
Facility/Site Region	12-Houston	Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38809	No. of Violations	2
Docket No.	2009-1971-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Tate Barrett
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$7,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	2.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$150
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Notes: Enhancement for one previous NOV with dissimilar violations.

<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>	\$1,500
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,123
Approx. Cost of Compliance	\$1,500

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$6,150
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	18.2%	<b>Adjustment</b>	\$1,118
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

<b>Final Penalty Amount</b>	\$7,268
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,268
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,453
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$5,815
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Screening Date 1-Dec-2009

Docket No. 2009-1971-PST-E

PCW

Respondent M & F HOLDINGS, INC. dba Gas N More

Policy Revision 2 (September 2002)

Case ID No. 38809

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101737419

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tate Barrett

### 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)	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%
<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 previous NOV with dissimilar violations.

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

Screening Date 1-Dec-2009

Docket No. 2009-1971-PST-E

PCW

Respondent M & F HOLDINGS, INC. dba Gas N More

Policy Revision 2 (September 2002)

Case ID No. 38809

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101737419

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tate Barrett

Violation Number 1

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, a daily inspection log of the Stage II equipment was not being maintained.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

73 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the September 29, 2009 investigation.

Good Faith Efforts to Comply

10.0% Reduction

\$250

Before NOV NGV to EDRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes The Respondent came into compliance on December 10, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$2,718

This violation Final Assessed Penalty (adjusted for limits) \$2,718

## Economic Benefit Worksheet

**Respondent** M & F HOLDINGS, INC. dba Gas N More  
**Case ID No.** 38809  
**Reg. Ent. Reference No.** RN101737419  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	29-Sep-2009	10-Dec-2009	0.20	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$5

Screening Date 1-Dec-2009

Docket No. 2009-1971-PST-E

PCW

Respondent M & F HOLDINGS, INC. dba Gas N More

Policy Revision 2 (September 2002)

Case ID No. 38809

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101737419

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tate Barrett

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II triennial system compliance testing had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> 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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1

545 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$6,000

One single event is recommended for the period preceding the September 29, 2009 investigation.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent came into compliance on October 29, 2009, prior to the NOE issued on November 24, 2009.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,118

Violation Final Penalty Total \$4,550

This violation Final Assessed Penalty (adjusted for limits) \$4,550

# Economic Benefit Worksheet

**Respondent** M & F HOLDINGS, INC. dba Gas N More  
**Case ID No.** 38809  
**Reg. Ent. Reference No.** RN101737419  
**Media** Petroleum Storage Tank  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				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)

	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]	\$1,000	23-May-2008	29-Oct-2009	2.35	\$118	\$1,000	\$1,118
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for triennial testing to verify proper operation of the Stage II equipment. The date required is the date the triennial test was due and the final date is the date of compliance.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,118

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600934525 M & F HOLDINGS, INC. Classification: AVERAGE Rating: 1.50  
Regulated Entity: RN101737419 Gas N More Classification: AVERAGE Site Rating: 1.50  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 424  
REGISTRATION  
Location: 301 1ST ST E, HUMBLE, TX, 77338  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: December 01, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: December 01, 2004 to December 01, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Tate Barrett Phone: (713) 422-8968

## 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 08/29/2005 (394490)
  - 2 11/24/2009 (743630)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/29/2005 (394490)  
Self NO Classification: Moderate  
Report?  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(5)  
Description: Failure to remove malfunctioning equipment from service.
- 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  
M & F HOLDINGS, INC. DBA GAS N  
MORE  
RN101737419

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

AGREED ORDER  
DOCKET NO. 2009-1971-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 M & F HOLDINGS, INC. dba Gas N More ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 301 1st Street East in Humble, Harris County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
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 November 29, 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 Seven Thousand Two Hundred Sixty-Eight Dollars (\$7,268) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid One Hundred Eighty Dollars (\$180) of the administrative penalty and One Thousand Four Hundred Fifty-Three Dollars (\$1,453) 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 Five Thousand Six Hundred Thirty-Five Dollars (\$5,635) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Sixty-One Dollars (\$161) 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 Station:
  - a. Successfully conducted the required triennial testing of the Stage II equipment on October 29, 2009; and
  - b. December 10, 2009, the TCEQ Houston Regional Office received documentation that the Respondent began maintaining daily inspection records at the Station.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that 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 Station, the Respondent is alleged to have:

1. Failed to maintain Stage II records at the Station, in violation of 30 TEX. ADMIN. CODE § 115.246(6) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 29, 2009. Specifically, a daily inspection log of the Stage II equipment was not being maintained.
2. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 29, 2009. Specifically, the Stage II triennial system compliance testing had not been conducted.

## 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: M & F HOLDINGS, INC. dba Gas N More, Docket No. 2009-1971-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 the Respondent. The Respondent 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. 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.

4. 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. 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.
6. 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.
7. 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

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

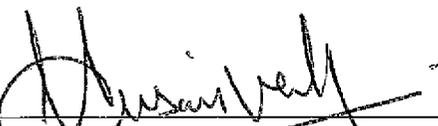
4/20/2010  
Date

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.

  
\_\_\_\_\_  
Signature

03-22-2010  
Date

MIKE HUSSAIN VALCI

President  
Title

Name (Printed or typed)  
Authorized Representative of  
M & F HOLDINGS, INC. dba Gas N More

**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.



