

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-1762-MLM-E TCEQ ID: RN102358843 CASE NO.: 39009**

**RESPONDENT NAME: Martin Cantu dba Valley Quick Stop**

|  |  |  |
|--|--|--|
| <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 checked="" 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 checked="" type="checkbox"/> OCCUPATIONAL LICENSING           |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Valley Quick Stop, 9638 North Farm-to-Market Road 1015, Mercedes, Hidalgo County</p> <p><b>TYPE OF OPERATION:</b> Convenience store</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> A complaint was received on August 21, 2008, alleging that two underground storage tanks ("USTs") had surfaced due to flooding in the area and fuel odor could be detected during the flooding. Also, fuel sheen was observed during the flooding. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 28, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Ms. Brianna Carlson, Enforcement Division, Enforcement Team 7, MC R-15, (956) 430-6021; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Martin Cantu, Owner, Martin Cantu dba Valley Quick Stop, 9638 North FM 1015, Mercedes, Texas 78570<br/> <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><br/> <input checked="" type="checkbox"/> Complaint<br/> <input type="checkbox"/> Routine<br/> <input checked="" type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> August 21, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> November 17, 2009</p> <p><b>Date of NOE Relating to this Case:</b> December 16, 2009</p> <p><b>Background Facts:</b> This was a complaint investigation and enforcement follow-up.</p> <p><b>WATER</b></p> <p>1) Failure to have a site assessment performed by a qualified person to determine whether a release has occurred after the permanent removal of an UST system [30 TEX. ADMIN. CODE § 334.55(e)].</p> <p>2) Failure to provide all applicable construction notification information to the TCEQ prior to performing a major UST construction activity. Specifically, the Respondent removed two USTs from the ground without construction notification [30 TEX. ADMIN. CODE § 334.6(b)(6)(A)].</p> <p>3) Failure to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the UST system [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>4) Failure to obtain the proper TCEQ license or certification prior to removing an UST system. Specifically, the Respondent removed two USTs from the ground without possessing a TCEQ license or certification [30 TEX. ADMIN. CODE §§ 30.5(a), 30.301(b) and TEX. WATER CODE § 37.003].</p> | <p><b>Total Assessed:</b> \$8,435</p> <p><b>Total Deferred:</b> \$1,687<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <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> \$518 (remaining \$6,230 due in 35 monthly payments of \$178 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>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, obtain a licensed on-site supervisor/contractor to conduct a site assessment.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit an amended registration to reflect the current operational status of the UST system.</p> <p>c. Within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p> |



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|       |          |             |           |            |         |  |
|-------|----------|-------------|-----------|------------|---------|--|
| DATES | Assigned | 21-Dec-2009 | Screening | 6-Jan-2010 | EPA Due |  |
|       | PCW      | 5-Feb-2010  |           |            |         |  |

## RESPONDENT/FACILITY INFORMATION

|                      |                                    |                    |       |
|----------------------|------------------------------------|--------------------|-------|
| Respondent           | Martin Cantu dba Valley Quick Stop |                    |       |
| Reg. Ent. Ref. No.   | RN102358843                        |                    |       |
| Facility/Site Region | 15-Harlingen                       | Major/Minor Source | Minor |

## CASE INFORMATION

|                                 |                           |                       |                    |
|---------------------------------|---------------------------|-----------------------|--------------------|
| Enf./Case ID No.                | 39009                     | No. of Violations     | 3                  |
| Docket No.                      | 2009-1762-MLM-E           | Order Type            | 1660               |
| Media Program(s)                | Petroleum Storage Tank    | Government/Non-Profit | No                 |
| Multi-Media                     | All Occupational Licenses | Enf. Coordinator      | Brianna Carlson    |
|                                 |                           | EC's Team             | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0                       | Maximum               | \$10,000           |

## Penalty Calculation Section

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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 5.0% Enhancement Subtotals 2, 3, & 7

Notes

**Culpability** No 0.0% Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit** 0.0% Enhancement\* Subtotal 6

|                            |          |                                   |
|----------------------------|----------|-----------------------------------|
| Total EB Amounts           | \$516    | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$10,200 |                                   |

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 1.4% Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL** 20.0% Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 6-Jan-2010

Docket No. 2009-1762-MLM-E

PCW

Respondent Martin Cantu dba Valley Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 39009

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102358843

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

**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 judgments or consent decrees meeting criteria)  | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |

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 violations.

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

Screening Date 6-Jan-2010

Docket No. 2009-1762-MLM-E

PCW

Respondent Martin Cantu dba Valley Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 39009

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102358843

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.55(e)

Violation Description

Failed to have a site assessment performed by a qualified person to determine whether a release has occurred after the permanent removal of an underground storage tank ("UST") system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | x     |          |       |

Percent 25%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | Major | Moderate | Minor |
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

50 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | x |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$5,000

Two monthly events are recommended based on documentation of the violation during the November 17, 2009 investigation to the January 6, 2010 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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$407

Violation Final Penalty Total \$5,325

This violation Final Assessed Penalty (adjusted for limits) \$5,325

# Economic Benefit Worksheet

**Respondent** Marlin Cantu dba Valley Quick Stop  
**Case ID No.** 39009  
**Reg. Ent. Reference No.** RN102358843  
**Media** Petroleum Storage Tank  
**Violation No.** 1

|                         |                              |
|-------------------------|------------------------------|
| <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 |
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|

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)        | \$10,000  | 17-Nov-2009   | 10-Sep-2010 | 0.81 | \$407          | n/a           | \$407     |

Notes for DELAYED costs

The estimated cost to conduct release determination and implement appropriate correction measures. The date required is the investigation date. The final date is the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$407

Screening Date 6-Jan-2010

Docket No. 2009-1762-MLM-E

PCW

Respondent Martin Cantu dba Valley Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 39009

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102358843

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.6(b)(6)(A)

Violation Description

Failed to provide all applicable construction notification information to the TCEQ prior to performing a major UST construction activity. Specifically, the Respondent removed two USTs from the ground without construction notification.

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 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

50 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | x |

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the November 17, 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 \$1,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$105

Statutory Limit Test

Violation Final Penalty Total \$1,085

This violation Final Assessed Penalty (adjusted for limits) \$1,085

## Economic Benefit Worksheet

**Respondent** Martin Cantu dba Valley Quick Stop  
**Case ID No.** 39009  
**Reg. Ent. Reference No.** RN102358843  
**Media** Petroleum Storage Tank  
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

**Delayed Costs**

|                          |  |  |  |      |     |     |     |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment                |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Buildings                |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)        |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Land                     |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System    |  |  |  | 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]    |       |             |             | 0.00 | \$0 | \$0   | \$0   |
| Other (as needed)             | \$100 | 18-Oct-2009 | 17-Nov-2009 | 1.00 | \$5 | \$100 | \$105 |

Notes for AVOIDED costs

Estimated cost to accurately prepare and submit a notification. The date required is 30 days prior to the investigation date. The final date is the investigation date.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Screening Date 6-Jan-2010

Docket No. 2009-1762-MLM-E

PCW

Respondent Martin Cantu dba Valley Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 39009

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102358843

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the UST system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR        | Release | Harm  |          |       | Percent |
|-----------|---------|-------|----------|-------|---------|
|           |         | Major | Moderate | Minor |         |
| Actual    |         |       |          |       | 0%      |
| Potential |         |       |          |       |         |

>> Programmatic Matrix

|  | Falsification |          |       | Percent |
|--|---------------|----------|-------|---------|
|  | Major         | Moderate | Minor |         |
|  | x             |          |       | 10%     |

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 50 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the November 17, 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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,065

This violation Final Assessed Penalty (adjusted for limits) \$1,065

# Economic Benefit Worksheet

**Respondent** Martin Cantu dba Valley Quick Stop  
**Case ID No.** 39009  
**Reg. Ent. Reference No.** RN102358843  
**Media** Petroleum Storage Tank  
**Violation No.** 3

|                         |                              |
|-------------------------|------------------------------|
| <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 |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| No commas or \$          |           |               |            |      |                |               |           |
| <b>Delayed Costs</b>     |           |               |            |      |                |               |           |
| Equipment                |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Buildings                |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Land                     |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Other (as needed)        | \$100     | 17-Nov-2009   | 3-Oct-2010 | 0.88 | \$4            | n/a           | \$4       |

**Notes for DELAYED costs**  
 Estimated cost to accurately prepare and submit an updated UST registration. The date required is the investigation date. The final date is the estimated date of compliance.

| Item Description  | Item Cost | Date Required | Final Date | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|---|-----------|---------------|------------|------|----------------|---------------|-----------|
| <b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b> |           |               |            |      |                |               |           |
| 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**  
 (This area is currently blank)

**Approx. Cost of Compliance** **TOTAL**  
\$100 \$4



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

|       |          |             |           |            |         |  |
|-------|----------|-------------|-----------|------------|---------|--|
| DATES | Assigned | 21-Dec-2009 | Screening | 6-Jan-2010 | EPA Due |  |
|       | PCW      | 5-Feb-2010  |           |            |         |  |

|  |                                    |                    |       |
|--|------------------------------------|--------------------|-------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                                    |                    |       |
| Respondent                             | Martin Cantu dba Valley Quick Stop |                    |       |
| Reg. Ent. Ref. No.                     | RN102358843                        |                    |       |
| Facility/Site Region                   | 15-Harlingen                       | Major/Minor Source | Minor |

|                                 |                           |                       |                    |
|---------------------------------|---------------------------|-----------------------|--------------------|
| <b>CASE INFORMATION</b>         |                           |                       |                    |
| Enf./Case ID No.                | 39009                     | No. of Violations     | 1                  |
| Docket No.                      | 2009-1762-MLM-E           | Order Type            | 1660               |
| Media Program(s)                | All Occupational Licenses | Government/Non-Profit | No                 |
| Multi-Media                     | Petroleum Storage Tank    | Enf. Coordinator      | Brianna Carlson    |
|                                 |                           | EC's Team             | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0                       | Maximum               | \$2,500            |

## Penalty Calculation Section

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

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement **Subtotal 6**

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

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

Screening Date 6-Jan-2010

Docket No. 2009-1762-MLM-E

PCW

Respondent Martin Cantu dba Valley Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 39009

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102358843

Media [Statute] All Occupational Licenses

Enf. Coordinator Brianna Carlson

**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%      |

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) 2%

>> 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 dissimilar violations.

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

Screening Date 6-Jan-2010

Docket No. 2009-1762-MLM-E

PCW

Respondent Martin Cantu dba Valley Quick Stop

Policy Revision 2 (September 2002)

Case ID No. 39009

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102358843

Media [Statute] All Occupational Licenses

Enf. Coordinator Brianna Carlson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 30.5(a), 30.301(b) and Tex. Water Code § 37.003

Violation Description

Failed to obtain the proper TCEQ license or certification prior to removing an underground storage tank ("UST")-system. Specifically, the Respondent removed two USTs from the ground without possessing a TCEQ license or certification.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | X     |          |       |

Percent 25%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 1

1 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | X |

mark only one with an x

Violation Base Penalty \$625

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

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 \$625

Economic Benefit (EB) for this violation

Estimated EB Amount \$343

Statutory Limit Test

Violation Final Penalty Total \$981

This violation Final Assessed Penalty (adjusted for limits) \$981

# Economic Benefit Worksheet

**Respondent** Martin Centu dba Valley Quick Stop  
**Case ID No.** 39009  
**Reg. Ent. Reference No.** RN102958843  
**Media** All Occupational Licenses  
**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]    | \$343 | 16-Nov-2009 | 17-Nov-2009 | 0.00 | \$0 | \$343 | \$343 |
| Other (as needed)             |       |             |             | 0.00 | \$0 | \$0   | \$0   |

Notes for AVOIDED costs

Avoided cost to obtain an on-site supervisor license and contractor registration. The date required is one day prior to the investigation date. The final date is the investigation date.

Approx. Cost of Compliance

\$343

TOTAL

\$343

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602803140 Cantu, Martin Classification: AVERAGE Rating: 2.00  
Regulated Entity: RN102358843 Valley Quick Stop Classification: AVERAGE Site Rating: 2.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 18465

REGISTRATION

Location: 9638 North FM 1015, Mercedes, Texas

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: February 05, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 05, 2005 to February 05, 2010

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

Name: Brianna Carlson Phone: 956/430-6021

## 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 01/07/2009 (722256)
- 2 10/15/2009 (777002)
- 3 12/16/2009 (782979)

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

Date: 10/15/2008 (702160)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.46(b)(1)

Description: Failure to prevent tank floatation in accordance with the tank manufacturer's specifications.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition.

- 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  
MARTIN CANTU DBA VALLEY  
QUICK STOP  
RN102358843

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-1762-MLM-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 Martin Cantu dba Valley Quick Stop ("the Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 37. 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 at 9638 North Farm-to-Market Road 1015 in Mercedes, Hidalgo County, Texas (the "Facility").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 21, 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 Eight Thousand Four Hundred Thirty-Five Dollars (\$8,435) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Eighteen Dollars (\$518) of the

administrative penalty and One Thousand Six Hundred Eighty-Seven Dollars (\$1,687) 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 Six Thousand Two Hundred Thirty Dollars (\$6,230) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Seventy-Eight Dollars (\$178) 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 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.
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

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

1. Failed to have a site assessment performed by a qualified person to determine whether a release has occurred after the permanent removal of an UST system, in violation of 30 TEX. ADMIN. CODE § 334.55(e), as documented during an investigation conducted on November 17, 2009.
2. Failed to provide all applicable construction notification information to the TCEQ prior to performing a major UST construction activity, in violation of 30 TEX. ADMIN. CODE § 334.6(b)(6)(A), as documented during an investigation conducted on November 17, 2009.

Specifically, the Respondent removed two USTs from the ground without construction notification.

3. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on November 17, 2009. Specifically, the registration was not updated to reflect the current operational status of the UST system.
4. Failed to obtain the proper TCEQ license or certification prior to removing an UST system, in violation of 30 TEX. ADMIN. CODE §§ 30.5(a), 30.301(b) and TEX. WATER CODE § 37.003, as documented during an investigation conducted on November 17, 2009. Specifically, the Respondent removed two USTs from the ground without possessing a TCEQ license or certification.

### 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: Martin Cantu dba Valley Quick Stop, Docket No. 2009-1762-MLM-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, obtain a licensed on-site supervisor/contractor to conduct a site assessment, in accordance with 30 TEX. ADMIN. CODE § 334.55, and submit the site assessment report to:

Texas Commission on Environmental Quality  
Remediation Division, MC 137  
P.O. Box 13087  
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed Order, submit an amended registration to reflect the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section  
Permitting & Remediation Support Division, MC138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager  
Harlingen Regional Office  
Texas Commission on Environmental Quality  
1804 West Jefferson Avenue  
Harlingen, Texas 78550-5247

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.

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

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

6/7/2010  
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

4-28-10  
Date

MARTIN CANTU  
Name (Printed or typed)  
Authorized Representative of  
Martin Cantu dba Valley Quick Stop

Owner  
Title

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