

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Date of Investigation Relating to this Case: July 21, 2009</p> <p>Date of NOE Relating to this Case: August 14, 2009</p> <p>Background Facts:</p> <p>The EDPRP was filed on February 25, 2010. Settlement was achieved and the agreed order was signed on July 14, 2010.</p> <p>Current Compliance Status:</p> <p>No outstanding technical requirements. Respondent's delivery certificate expires March 31, 2011.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)]. Failed to report to the TCEQ a suspected release within 24 hours of discovery [30 TEX. ADMIN. CODE §§ 334.50(d)(9)(A)(iii)(V)(iv) and 334.72(3)(B)]. Failed to investigate a suspected release within 30 days of discovery [30 TEX. ADMIN. CODE § 334.74]. 	<p>Total Assessed: \$20,340</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$740/\$19,600</p> <p>Respondent paid \$740 of the administrative penalty. The remaining amount of \$20,340 shall be payable in 35 monthly payments of \$560 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action Taken:</p> <p>The Executive Director recognizes that Respondent performed the following corrective actions at the Facility:</p> <ol style="list-style-type: none"> On August 25, 2009, began maintaining UST records; On August 25, 2009, reported the suspected release to the TCEQ; and On September 8, 2009, reported passing statistical inventory reconciliation results.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	17-Aug-2009			
	PCW	8-Jun-2010	Screening	19-Aug-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	MAGIC FIRST, INC. dba Magic Food Mart				
Reg. Ent. Ref. No.	RN102362241				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	38183	No. of Violations	3		
Docket No.	2009-1340-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Judy Kluge		
		EC's Team	Enforcement Team 6		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	2.0% Enhancement	Subtotals 2, 3, & 7	\$440
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Notes: Adjustment for one prior NOV with dissimilar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,200
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$206	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,600	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,240
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.5%	Adjustment	\$100
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount \$20,340

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,340
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited settlement.

PAYABLE PENALTY	\$20,340
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Screening Date 19-Aug-2009

Docket No. 2009-1340-PST-E

PCW

Respondent MAGIC FIRST, INC. dba Magic Food Mart

Policy Revision 2 (September 2002)

Case ID No. 38183

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102362241

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

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

Adjustment Percentage (Subtotal 2) 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 Adjustment for one prior NOV with dissimilar violations.

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

Screening Date 19-Aug-2009 **Docket No.** 2009-1340-PST-E **PCW**
Respondent MAGIC FIRST, INC. dba Magic Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 38183 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102362241
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)
Violation Description Failed to maintain the required UST records and make them immediately available for the inspection upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent 0%	
	Release	Major	Moderate		Minor
	Actual				
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 10%
		x			

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 29 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 July 21, 2009, investigation.

Good Faith Efforts to Comply 10.0% Reduction \$100

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

Notes The Respondent came into compliance on August 25, 2009, after the NOE dated August 14, 2009.

Violation Subtotal \$900

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

Estimated EB Amount \$2 **Violation Final Penalty Total** \$925

This violation Final Assessed Penalty (adjusted for limits) \$925

Economic Benefit Worksheet

Respondent MAGIC FIRST, INC. dba Magic Food Mart
Case ID No. 38183
Reg. Ent. Reference No. RN102362241
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	\$500	21-Jul-2009	25-Aug-2009	0.10	\$2	n/a	\$2
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 all UST 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

\$2

Screening Date 19-Aug-2009 **Docket No.** 2009-1340-PST-E **PCW**
Respondent MAGIC FIRST, INC. dba Magic Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 38183 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102362241
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(d)(9)(A)(iii)(V)(iv), and 334.72(3)(B)
Violation Description Failed to report to the TCEQ a suspected release within 24 hours of discovery. Specifically, the statistical inventory reconciliation ("SIR") results for November 2008 indicated a suspected release that was not reported.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1 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 July 21, 2009, investigation.

Good Faith Efforts to Comply 10.0% Reduction \$100

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

Notes The Respondent came into compliance on August 25, 2009, after the NOE dated August 14, 2009.

Violation Subtotal \$900

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

Estimated EB Amount \$100 **Violation Final Penalty Total** \$925

This violation Final Assessed Penalty (adjusted for limits) \$925

Economic Benefit Worksheet

Respondent MAGIC FIRST, INC. dba Magic Food Mart
Case ID No. 38183
Reg. Ent. Reference No. RN102362241
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]	\$100	1-Dec-2008	2-Dec-2008	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to report a suspected release. The date required is the date of the suspected release and the final date is the date the report was due.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date 19-Aug-2009 **Docket No.** 2009-1340-PST-E **PCW**
Respondent MAGIC FIRST, INC. dba Magic Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 38183 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102362241
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to investigate a suspected release within 30 days of discovery. Specifically, the SIR results for November 2008 indicated a suspected release that was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	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 \$7,500

\$2,500

Violation Events

Number of Violation Events 8 231 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$20,000

Eight monthly events are recommended from the release investigation due date of December 31, 2008 to the August 19, 2008 screening date.

Good Faith Efforts to Comply 10.0% Reduction \$2,000

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

Notes The Respondent came into compliance on September 8, 2009 after the NOE dated August 14, 2009.

Violation Subtotal \$18,000

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

Estimated EB Amount \$103 **Violation Final Penalty Total** \$18,491

This violation Final Assessed Penalty (adjusted for limits) \$18,491

Economic Benefit Worksheet

Respondent MAGIC FIRST, INC. dba Magic Food Mart
Case ID No. 38183
Reg. Ent. Reference No. RN102362241
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	31-Dec-2008	8-Sep-2009	0.69	\$103	n/a	\$103

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The date required is the date the release investigation was due and the final date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,000

TOTAL

\$103

Compliance History Report

Customer/Respondent/Owner-Operator: CN601238256 MAGIC FIRST, INC. Classification: AVERAGE Rating: 1.00
Regulated Entity: RN102362241 Magic Food Mart Classification: AVERAGE Site Rating: 1.00
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG3305Q
PETROLEUM STORAGE TANK REGISTRATION 39644
Location: 16141 MARKET ST, CHANNELVIEW, TX, 77530
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: August 17, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 17, 2004 to August 17, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 08/30/2005 (401413)
 - 2 10/26/2005 (433794)
 - 3 08/14/2009 (763380)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/30/2005 (401413)	CN601238256
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 334, SubChapter A 334.7(d)(3)	
Description:	Failure to amend registration	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)	
Description:	No triennial test within the last three years.	
- 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
MAGIC FIRST, INC. DBA
MAGIC FOOD MART;
RN102362241**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1340-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 MAGIC FIRST, INC. dba Magic Food Mart (“Magic” or “Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Magic appear before the Commission and together stipulate that:

1. Magic owns and operates two underground storage tanks (“USTs”) and a convenience store located at 16141 Market Street, Channelview, Harris County, Texas (the “Facility”).
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. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Magic agree that the Commission has jurisdiction to enter this Agreed Order, and that Magic 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 Magic of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
5. An administrative penalty in the amount of twenty thousand three hundred forty dollars (\$20,340.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Magic paid seven hundred forty dollars (\$740.00) of the administrative penalty. The remaining amount of nineteen thousand six hundred dollars (\$19,600.00) of the administrative penalty shall be payable in 35 monthly payments of five hundred sixty dollars (\$560.00) 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 Magic 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, Magic's failure to meet the payment schedule of this Agreed Order constitutes the failure by Magic 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 Magic agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
 - a. On August, 25, 2009, Magic began maintaining UST records;
 - b. On August 25, 2009, Magic reported the suspected release to the TCEQ; and
 - c. On September 8, 2009, Magic reported passing statistical inventory reconciliation ("SIR") results.
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 Magic 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 21, 2009, a TCEQ Houston Regional Office investigator documented that Magic violated:
 - a. 30 TEX. ADMIN. CODE § 334.10(b), by failing to maintain the required UST records and make them immediately available for inspection upon request by agency personnel;
 - b. 30 TEX. ADMIN. CODE §§ 334.50(d)(9)(A)(iii)(V)(iv) and 334.72(3)(B), by failing to report to the TCEQ a suspected release within 24 hours of discovery. Specifically, the SIR results for November 2008 indicated a suspected release that was not reported; and
 - c. 30 TEX. ADMIN. CODE § 334.74, by failing to investigate a suspected release within 30 days of discovery. Specifically, the SIR results for November 2008 indicated a suspected release that was not investigated.
2. Magic received notice of the violations on or about August 19, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Magic pay an administrative penalty as set forth in Section I, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Magic’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 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: MAGIC FIRST, INC. dba Magic Food Mart, Docket No. 2009-1340-PST-E” to:

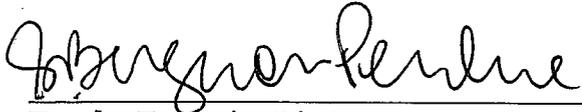
Financial Administration Division, Revenues Section
Attention: Cashier’s Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Magic. Magic is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. 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 Magic shall be made in writing to the Executive Director. Extensions are not effective until Magic receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
4. This Agreed Order, issued by the Commission, shall not be admissible against Magic 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.
5. 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.
6. 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 this Agreed Order to Magic, or three days after the date on which the Commission mails notice of this Agreed Order to Magic, 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

Date

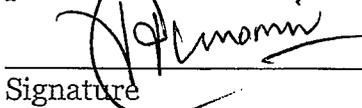
8/27/2010 HBP
~~07-28-10~~

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

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



Signature

07-14-10

Date

HASANALI W. MOMIN

Name (Printed or typed)

OWNER

Title

Authorized representative of

MAGIC FIRST, INC. dba Magic Food Mart