

Executive Summary – Enforcement Matter – Case No. 40097
Mona Enterprises, Inc. d/b/a Shop In Market
RN101782282
Docket No. 2010-1220-PST-E

Order Type:

Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

5008 Aldine Bender Road, Houston, Harris County

Type of Operation:

convenience store

Other Significant Matters:

| | |
|---|------|
| Additional Pending Enforcement Actions: | None |
| Past-Due Penalties: | None |
| Past-Due Fees: | None |
| Other: | None |
| Interested Third-Parties: | None |

Texas Register Publication Date: September 16, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$8,186

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$311

Total Due to General Revenue: \$7,875

Payment Plan: 35 payments of \$225 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average

Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: May 18, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): July 9, 2010

Violation Information

1. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4)(C) and TEX. WATER CODE § 26.3475(d)].
2. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
3. Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].
4. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight [30 TEX. ADMIN. CODE § 334.42(i)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Properly marked the fill tube for each UST with an identification number that matches the number listed on the UST registration and self-certification form; and
2. Began conducting bimonthly inspections of all sumps, manways, overspill containers or catchment basins associated with a UST system to assure that their sides, bottoms, and any penetration points are maintained liquid tight.

Technical Requirements:

1. Within 30 days:
 - a. Begin conducting bimonthly inspections of the cathodic protection system and conduct the required triennial testing of the cathodic protection system for operability and adequacy of protection; and
 - b. Implement a release detection method for all USTs at the Facility, to include but not limited to monitoring for releases monthly
2. Within 45 days, submit written certification to demonstrate compliance.

Executive Summary – Enforcement Matter – Case No. 40097
Mona Enterprises, Inc. d/b/a Shop In Market
RN101782282
Docket No. 2010-1220-PST-E

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Litigation Information

Date Petition(s) Filed: December 13, 2010; refiled June 6, 2011
Date Answer(s) Filed: June 30, 2011
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: August 29, 2011

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Lanae Foard, Water Enforcement Section, (512) 239- 2554

TCEQ Regional Contact: Nicole Bealle, Houston Regional Office, (713) 767-3623

Respondent: Abdul R. Punjwani, President, Mona Enterprises, Inc., 5008 Aldine Bender, Houston, Texas 77032

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 12-Jul-2010 | Screening | 16-Jul-2010 | EPA Due | |
| | PCW | 26-Oct-2010 | | | | |

| | |
|--|---|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Mona Enterprises, Inc. d/b/a Shop In Market |
| Reg. Ent. Ref. No. | RN101782282 |
| Facility/Site Region | 12-Houston |
| Major/Minor Source | Minor |

| | | | |
|--|------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 40097 | No. of Violations | 4 |
| Docket No. | 2010-1220-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Lanae Foard |
| | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$7,000 |
|---|-------------------|----------------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------------|--------------------------------|--------------|
| Compliance History | 4.0% Enhancement | Subtotals 2, 3, & 7 | \$280 |
|---------------------------|-------------------------|--------------------------------|--------------|

| | |
|--------------|--------------------------------------|
| Notes | Enhancement for two dissimilar NOVs. |
|--------------|--------------------------------------|

| | | | | |
|--------------------|-----------|-------------------------|-------------------|------------|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|-----------|-------------------------|-------------------|------------|

| | |
|--------------|--|
| Notes | The Respondent does not meet the culpability criteria. |
|--------------|--|

| | | |
|--|-------------------|--------------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$500 |
|--|-------------------|--------------|

| | | | |
|-------------------------|--------------------------|-------------------|------------|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|--------------------------|-------------------|------------|

| | | |
|----------------------------|---------|-----------------------------------|
| Total EB Amounts | \$1,464 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$2,800 | |

| | | |
|-----------------------------|-----------------------|----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$6,780 |
|-----------------------------|-----------------------|----------------|

| | | | |
|---|--------------|-------------------|----------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 20.7% | Adjustment | \$1,406 |
|---|--------------|-------------------|----------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|--------------|---|
| Notes | Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 4. |
|--------------|---|

| | |
|-----------------------------|----------------|
| Final Penalty Amount | \$8,186 |
|-----------------------------|----------------|

| | | |
|-----------------------------------|-------------------------------|----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$8,186 |
|-----------------------------------|-------------------------------|----------------|

| | | | |
|-----------------|-----------------------|-------------------|------------|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|-----------------------|-------------------|------------|

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

| | |
|--------------|--|
| Notes | Deferral not offered for non-expedited settlement. |
|--------------|--|

| | |
|------------------------|----------------|
| PAYABLE PENALTY | \$8,186 |
|------------------------|----------------|

Screening Date 16-Jul-2010

Docket No. 2010-1220-PST-E

PCW

Respondent Mona Enterprises, Inc. d/b/a Shop In Market

Policy Revision 2 (September 2002)

Case ID No. 40097

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101782282

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Lanae Foard

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written notices of violation ("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 | 2 | 4% |
| 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) 4%

>> 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 two dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 4%

Screening Date 16-Jul-2010

Docket No. 2010-1220-PST-E

PCW

Respondent Mona Enterprises, Inc. d/b/a Shop In Market

Policy Revision 2 (September 2002)

Case ID No. 40097

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101782282

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Lanae Foard

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 334.49(c)(2)(C) and 334.49(c)(4)(C) and Tex. Water Code § 26.3475(d)

Violation Description Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 25% |
| Potential | x | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0% |

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 59 Number of violation days

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

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date (May 18, 2010) to the screening date (July 16, 2010).

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,301

Violation Final Penalty Total \$3,139

This violation Final Assessed Penalty (adjusted for limits) \$3,139

Economic Benefit Worksheet

Respondent Mona Enterprises, Inc. d/b/a Shop In Market
Case ID No. 40097
Req. Ent. Reference No. RN101782282
Media Petroleum Storage Tank
Violation No. 1

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

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

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

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

| | | | | | | | |
|-------------------------------|---------|-------------|-------------|------|-------|---------|---------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$100 | 19-Mar-2010 | 18-May-2010 | 1.08 | \$5 | \$100 | \$105 |
| Other (as needed) | \$1,000 | 19-May-2007 | 18-May-2010 | 3.92 | \$196 | \$1,000 | \$1,196 |

Notes for AVOIDED costs

Avoided cost for conducting bimonthly inspection (\$100) and completing triennial test (\$1,000). Dates required are 60 days before the investigation date and three years before the investigation date, respectively. Final date is the investigation date.

Approx. Cost of Compliance

\$1,100

TOTAL

\$1,301

Screening Date 16-Jul-2010

Docket No. 2010-1220-PST-E

PCW

Respondent Mona Enterprises, Inc. d/b/a Shop In Market

Policy Revision 2 (September 2002)

Case ID No. 40097

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101782282

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Lanae Foard

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: 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 1 59 Number of violation days

Table for frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date (May 18, 2010) to the screening date (July 16, 2010).

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$58

Violation Final Penalty Total \$3,139

This violation Final Assessed Penalty (adjusted for limits) \$3,139

Economic Benefit Worksheet

Respondent Mona Enterprises, Inc. d/b/a Shop In Market
Case ID No. 40097
Req. Ent. Reference No. RN101782282
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) | \$1,500 | 18-May-2010 | 23-Feb-2011 | 0.77 | \$58 | n/a | \$58 |

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs. The date required is the date of the investigation. Final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$58

Screening Date 16-Jul-2010

Docket No. 2010-1220-PST-E

PCW

Respondent Mona Enterprises, Inc. d/b/a Shop In Market

Policy Revision 2 (September 2002)

Case ID No. 40097

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101782282

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Lanae Foard

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

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

>> Programmatic Matrix

| Falsification | Harm | | | 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 2 Number of violation days

| | | | |
|-------------------------|--------------|---|--------------------------------|
| mark only one with an x | daily | | Violation Base Penalty \$1,000 |
| | weekly | | |
| | monthly | | |
| | quarterly | | |
| | semiannual | | |
| | annual | | |
| | single event | x | |

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction \$250

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

Notes The Respondent came into compliance on May 20, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$954

This violation Final Assessed Penalty (adjusted for limits) \$954

Economic Benefit Worksheet

Respondent Mona Enterprises, Inc. d/b/a Shop In Market
Case ID No. 40097
Req. Ent. Reference No. RN101782282
Media Petroleum Storage Tank
Violation No. 3

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

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

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 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 | 18-May-2010 | 20-May-2010 | 0.01 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to label the tank fill ports. Date required is the investigation date. 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

\$100

TOTAL

\$0

Screening Date 16-Jul-2010

Docket No. 2010-1220-PST-E

PCW

Respondent Mona Enterprises, Inc. d/b/a Shop In Market

Policy Revision 2 (September 2002)

Case ID No. 40097

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101782282

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Lanae Foard

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.42(i)

Violation Description Failed to inspect all sumps, manways, overflow containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 2

Table with columns: Frequency (daily, weekly, monthly, quarterly, semiannual, annual, single event), mark only one with an x.

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date (May 18, 2010) to the date of compliance (May 20, 2010).

Good Faith Efforts to Comply

25.0% Reduction \$250

Table with columns: Effort (Extraordinary, Ordinary, N/A), Before NOV, NOV to EDPRP/Settlement Offer.

Notes The Respondent came into compliance on May 20, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$954

This violation Final Assessed Penalty (adjusted for limits) \$954

Economic Benefit Worksheet

Respondent Mona Enterprises, Inc. d/b/a Shop In Market
Case ID No. 40097
Req. Ent. Reference No. RN101782282
Media Petroleum Storage Tank
Violation No. 4

| 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 | 19-Mar-2010 | 18-May-2010 | 1.08 | \$5 | \$100 | \$105 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. The date required is 60 days before the investigation and the final date is the investigation date.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Compliance History Report

Customer/Respondent/Owner-Operator: CN600964274 Mona Enterprises, Inc. Classification: AVERAGE Rating: 19.25
 Regulated Entity: RN101782282 SHOP IN MARKET Classification: AVERAGE Site Rating: 19.25
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 27339
 Location: 5008 ALDINE BENDER RD, HOUSTON, HARRIS COUNTY, TEXAS
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: July 23, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: July 23, 2005 to July 23, 2010
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Lanae Foard Phone: (512) 239-2554

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 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 11/14/2006 (516274)
 - 2 02/12/2007 (536937)
 - 3 07/09/2010 (829759)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

| | | | |
|--------------|---|-----------------|--------------------------|
| Date: | 11/14/2006 | (516274) | CN600964274 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.244(1) | | |
| Description: | At the time of the investigation, there were no daily inspections being conducted at this facility. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.244(3) | | |
| Description: | At the time of the investigation, no monthly inspections were being conducted and recorded. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.248(1) | | |
| Description: | At the time of the investigation, there was no Stage II trained facility representative for this facility and no employees were familiar with the Stage II system and associated recordkeeping. | | |
| Self Report? | NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(3) | | |
| Description: | At the time of the investigation there was no record of maintenance available for review. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(5) | | |
| Description: | At the time of the investigation test records were not available for review. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(7)(A) | | |
| Description: | There was no record keeping of any type (Stage II related) being maintained on-site. | | |
| Date: | 02/12/2007 | (536937) | CN600964274 |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.244(1) | | |
| Description: | At the time of the investigation, there were no daily inspections being conducted at this facility. | | |
| Self Report? | NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.244(3) | | |

| | | | |
|--------------|---|-----------------|----------|
| Description: | At the time of the investigation, no monthly inspections were being conducted and recorded. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.248(1) | | |
| Description: | At the time of the investigation, there was no Stage II trained facility representative for this facility and no employees were familiar with the Stage II system and associated recordkeeping. | | |
| Self Report? | NO | Classification: | Minor |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(3) | | |
| Description: | At the time of the investigation there was no record of maintenance available for review. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(5) | | |
| Description: | At the time of the investigation test records were not available for review. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(7)(A) | | |
| Description: | There was no record keeping of any type (Stage II related) being maintained on-site. | | |

- 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
MONA ENTERPRISES, INC. D/B/A
SHOP IN MARKET;
RN101782282**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1220-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Mona Enterprises, Inc. d/b/a Shop In Market ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, appear before the Commission and together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 5008 Aldine Bender Road in Houston, Harris County, Texas (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
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 Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of eight thousand one hundred eighty-six dollars (\$8,186.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred eleven dollars (\$311.00) of the administrative penalty. The remaining amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred twenty-five dollars (\$225.00) 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 Respondent 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent 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 Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. The Executive Director recognizes that as of May 20, 2011, Respondent implemented the following corrective measures at the Facility:
 - a. Properly marked the fill tube for each UST with an identification number that matches the number listed on the UST registration and self-certification form; and
 - b. Began conducting bimonthly inspections of all sumps, manways, overspill containers or catchment basins associated with a UST system to assure that their sides, bottoms, and any penetration points are maintained liquid tight.
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 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

1. During an investigation conducted on May 18, 2010, a TCEQ Houston Regional Office investigator documented that Respondent:
 - a. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4)(C) and TEX. WATER CODE § 26.3475(d);
 - b. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1);

- c. Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C); and
 - d. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight, in violation of 30 TEX. ADMIN. CODE § 334.42(i).
2. Respondent received notice of the violations on or about July 14, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions 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: Mona Enterprises, Inc. d/b/a Shop In Market, Docket No. 2010-1220-PST-E" to:

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

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Begin conducting bimonthly inspections of the cathodic protection system and conduct the required triennial testing of the cathodic protection system for operability and adequacy of protection, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - ii. Implement a release detection method for all USTs at the Facility, to include but not limited to monitoring for releases monthly, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii. The certification required by these Ordering Provisions shall be accompanied by

detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Nicole Bealle, Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

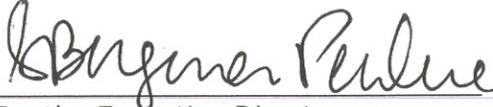
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against 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.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 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 Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

9/29/2011

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Mona Enterprises, Inc. d/b/a Shop In Market, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature -Abdul R. Punjwani, President,
Mona Enterprises, Inc.

Aug. 29, 2011

Date