

Executive Summary – Enforcement Matter – Case No. 40865  
E.Y.C. CORPORATION  
RN102478575  
Docket No. 2010-2026-PST-E

**Order Type:**  
Agreed Order

**Findings Order Justification:**  
N/A

**Media:**  
PST

**Small Business:**  
N/A

**Location(s) Where Violation(s) Occurred:**  
6410 Lemmon Avenue, Dallas, Dallas County

**Type of Operation:**  
convenience store with retail sales of gasoline

**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:** \$2,000

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$113

**Total Due to General Revenue:** \$1,887

Payment Plan: 17 payments of \$111 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**  
Person/CN – Not yet rated  
Site/RN – Not yet rated

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**E.Y.C. CORPORATION  
RN102478575  
Docket No. 2010-2026-PST-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** November 22, 2010  
**Date(s) of NOV(s):** May 27, 2010  
**Date(s) of NOE(s):** November 23, 2010

***Violation Information***

Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN CODE § 115.242(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On December 14, 2010, Respondent replaced the broken dust cap filter and missing gasket for the regular unleaded gasoline filler tube.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** July 15, 2011  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** July 28, 2011

***Contact Information***

**TCEQ Attorneys:** Stephanie J. Frazee, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400

**TCEQ SEP Coordinator:** N/A

**TCEQ Enforcement Coordinator:** Rajesh Acharya, Waste Enforcement Section, (512) 239- 0577

**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903

**Respondent:** Elmer Cha, Director, E.Y.C. Corporation, 6410 Lemmon Avenue, Dallas, Texas 75209

**Respondent's Attorney:** Chris Collie, Colven & Tran, P.C., Two Lincoln Center, 5420 LBJ Freeway, Suite 300, Dallas, Texas 75240



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

|              |                 |             |                  |             |                |  |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 6-Dec-2010  | <b>Screening</b> | 14-Dec-2010 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 25-May-2011 |                  |             |                |  |

|  |                     |                           |       |  |  |  |
|--|---------------------|---------------------------|-------|--|--|--|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                     |                           |       |  |  |  |
| <b>Respondent</b>                      | E.Y.C. Corporation  |                           |       |  |  |  |
| <b>Reg. Ent. Ref. No.</b>              | RN102478575         |                           |       |  |  |  |
| <b>Facility/Site Region</b>            | 4-Dallas/Fort Worth | <b>Major/Minor Source</b> | Major |  |  |  |

|                                |                        |                              |                    |          |  |  |
|--------------------------------|------------------------|------------------------------|--------------------|----------|--|--|
| <b>CASE INFORMATION</b>        |                        |                              |                    |          |  |  |
| <b>Enf./Case ID No.</b>        | 40865                  | <b>No. of Violations</b>     | 1                  |          |  |  |
| <b>Docket No.</b>              | 2010-2026-PST-E        | <b>Order Type</b>            | 1660               |          |  |  |
| <b>Media Program(s)</b>        | Petroleum Storage Tank | <b>Government/Non-Profit</b> | No                 |          |  |  |
| <b>Multi-Media</b>             |                        | <b>Enf. Coordinator</b>      | Rajesh Acharya     |          |  |  |
|                                |                        | <b>EC's Team</b>             | Enforcement Team 6 |          |  |  |
| <b>Admin. Penalty \$ Limit</b> | <b>Minimum</b>         | \$0                          | <b>Maximum</b>     | \$10,000 |  |  |

## Penalty Calculation Section

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

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

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

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

|              |   |
|--------------|---|
| <b>Notes</b> | Enhancement for one NOV with same or similar violation. |
|--------------|---|

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

|              |  |
|--------------|--|
| <b>Notes</b> | The Respondent does not meet the culpability criteria. |
|--------------|--|

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

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

|                            |       |                                   |
|----------------------------|-------|-----------------------------------|
| Total EB Amounts           | \$1   | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$200 |                                   |

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

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> |  |
|--------------|--|

|                             |         |
|-----------------------------|---------|
| <b>Final Penalty Amount</b> | \$2,000 |
|-----------------------------|---------|

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$2,000 |
|-----------------------------------|-------------------------------|---------|

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

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

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral not offered for non-expedited settlement. |
|--------------|--|

|                        |         |
|------------------------|---------|
| <b>PAYABLE PENALTY</b> | \$2,000 |
|------------------------|---------|

**Screening Date** 14-Dec-2010

**Docket No.** 2010-2026-PST-E

**PCW**

**Respondent** E.Y.C. Corporation

*Policy Revision 2 (September 2002)*

**Case ID No.** 40865

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN102478575

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Rajesh Acharya

### 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> )  | 1                 | 5%      |
|                               | Other written NOVs   | 0                 | 0%      |
| 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)** 5%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one NOV with same or similar violation.

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

Screening Date 14-Dec-2010

Docket No. 2010-2026-PST-E

PCW

Respondent E.Y.C. Corporation

Policy Revision 2 (September 2002)

Case ID No. 40865

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102478575

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.242(3)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the dust cap filter for the regular unleaded gasoline filler tube was broken and missing the gasket.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not 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 22 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 based on documentation of the violation during the November 22, 2010 investigation date to the December 14, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent came into compliance on December 14, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,000

This violation Final Assessed Penalty (adjusted for limits) \$2,000

## Economic Benefit Worksheet

**Respondent** E.Y.C. Corporation  
**Case ID No.** 40865  
**Req. Ent. Reference No.** RN102478575  
**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                | \$200 | 22-Nov-2010 | 14-Dec-2010 | 0.06 | \$0 | \$1 | \$1 |
| 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

Estimated cost to replace the dust cap filter and gasket. Date Required is the date of the investigation.  
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

\$200

**TOTAL**

\$1

# Compliance History

Customer/Respondent/Owner-Operator: CN603868480 E.Y.C. Corporation Classification: Rating:  
Regulated Entity: RN102478575 CHEVRON LEMMON AVENUE Classification: Site Rating:  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION  
REGISTRATION  
Location: 6410 LEMMON AVE, DALLAS, TX, 75209  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: July 14, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 14, 2006 to July 14, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Rajesh Acharya Phone: (512) 239-0577

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?  
OWN Eun Hae Properties LLC  
OPR E.Y.C. Corporation
4. If Yes, who was/were the prior owner(s)/operator(s)?  
OWNOPR Eun Hae Properties LLC
5. When did the change(s) in owner or operator occur? 05/22/2009 OWNOPR Eun Hae Properties LLC

## 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 05/26/2010(824494)  
2 11/30/2010 (878895)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
Date: 05/27/2010 (824494) CN603868480  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)  
Description: Failure to document daily and monthly inspections.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
Description: Failure to maintain the Stage II vapor recovery system in proper operating condition.
- 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
E.Y.C. CORPORATION;  
RN102478575**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2010-2026-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 E.Y.C. Corporation ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Chris Collie of the law firm Colven & Tran, P.C., appear before the Commission and together stipulate that:

1. Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2(70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 6410 Lemmon Avenue in Dallas, Dallas County, Texas (the "Station"). The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The 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 two thousand dollars (\$2,000.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid one hundred thirteen dollars (\$113.00) of the administrative penalty. The remaining amount of one thousand eight hundred eighty-seven dollars (\$1,887.00) of the administrative penalty shall be payable in seventeen (17) monthly payments of one hundred eleven dollars (\$111.00) 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 on December 14, 2010, Respondent replaced the broken dust cap filter and missing gasket for the regular unleaded gasoline filler tube.
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 November 22, 2010, a City of Dallas contract investigator documented that Respondent violated 30 TEX. ADMIN. CODE § 115.242(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the dust cap filter for the regular unleaded gasoline filler tube was broken and missing the gasket.
2. Respondent received notice of the violation on or about December 5, 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 that are not raised here.
2. All relief not expressly granted in this Agreed Order is denied.
3. 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 Station operations referenced in this Agreed Order.
4. 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.
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 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.
6. 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.
7. 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

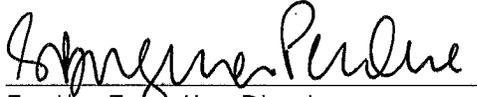
Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. 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

10/12/2011

\_\_\_\_\_  
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 E.Y.C. Corporation, 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 - Elmer Cha, Director  
E.Y.C. Corporation

7/29/11

\_\_\_\_\_  
Date