

**CAPTION: Docket No. 2010-1372-PST-E. Consideration of an Agreed Order assessing administrative penalties against Overseas Enterprises USA, Inc. dba Gateway Travel Plaza in Orange County; RN101743730; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Elvia Maske, Laurie Eaves)**

Page 1 of 2

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-1372-PST-E    **TCEQ ID:** RN101743730    **CASE NO.:** 40410  
**RESPONDENT NAME:** Overseas Enterprises USA, Inc. dba Gateway Travel Plaza

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input checked="" type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Gateway Travel Plaza, 1480 West Freeway Boulevard, Vidor, Orange County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> <b>Yes</b>    <input type="checkbox"/> <b>No</b></p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 28, 2011. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Elvia Maske, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0789; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Muhammad Kapadia, President, Overseas Enterprises USA, Inc., 1480 West Freeway Boulevard, Vidor, Texas 77662  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input checked="" type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> April 28, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> June 10, 2010 (NOE)</p> <p><b>Background Facts:</b> This was an enforcement follow-up investigation.</p> <p><b>WASTE</b></p> <p>Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$8,589</p> <p><b>Total Deferred:</b> \$1,717  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$227 (remaining \$6,645 due in 35 monthly payments of \$184 each and one monthly payment of \$205)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent conducted the required testing of the Stage II equipment on June 8, 2010, with passing results.</p>

Additional ID No(s): PST ID No. 17234



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	14-Jun-2010	<b>Screening</b>	21-Jun-2010	<b>EPA Due</b>	
	<b>PCW</b>	3-Sep-2010				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Overseas Enterprises USA, Inc. dba Gateway Travel Plaza		
<b>Reg. Ent. Ref. No.</b>	RN101743730		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	40410	<b>No. of Violations</b>	1	
<b>Docket No.</b>	2010-1372-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>	Elvia Maske	
		<b>EC's Team</b>	Enforcement Team 7	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$5,000**

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

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

**Compliance History** **85.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,250**

Notes: Enhancement for five dissimilar Notices of Violation (NOVs), two orders with denial of liability, Repeat Violator and Poor Performer classifications.

**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** **\$1,250**

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

Total EB Amounts **\$589**  
 Approx. Cost of Compliance **\$490**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$8,000**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **7.4%** **Adjustment** **\$589**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement for avoided cost of compliance associated with the violation.

**Final Penalty Amount** **\$8,589**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$8,589**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$1,717**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$6,872**

**Screening Date** 21-Jun-2010

**Docket No.** 2010-1372-PST-E

**PCW**

**Respondent** Overseas Enterprises USA, Inc. dba Gateway Tra

Policy Revision 2 (September 2002)

**Case ID No.** 40410

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101743730

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Elvia Maske

### 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	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	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)** 50%

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)** 25%

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

**Adjustment Percentage (Subtotal 7)** 10%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for five dissimilar Notices of Violation (NOVs), two orders with denial of liability, Repeat Violator and Poor Performer classifications.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 85%

Screening Date 21-Jun-2010

Docket No. 2010-1372-PST-E

PCW

Respondent Overseas Enterprises USA, Inc. dba Gateway Travel Plaza

Policy Revision 2 (September 2002)

Case ID No. 40410

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101743730

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 1

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

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

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

1095 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$5,000

One single event is recommended for the three-year period preceding the April 28, 2010 investigation.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes The Respondent achieved compliance on June 8, 2010, before the NOE date of June 10, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$589

Violation Final Penalty Total \$8,589

This violation Final Assessed Penalty (adjusted for limits) \$8,589

## Economic Benefit Worksheet

**Respondent** Overseas Enterprises USA, Inc. dba Gateway Travel Plaza  
**Case ID No.** 40410  
**Reg. Ent. Reference No.** RN101743730  
**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]	\$490	28-Apr-2007	8-Jun-2010	4.03	\$99	\$490	\$589
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for annual and triennial testing of the Stage II equipment based on an invoice submitted by the Respondent. The date required is three years prior to the investigation and the final date is the date of compliance.

Approx. Cost of Compliance \$490

**TOTAL** \$589

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600938708 Overseas Enterprises USA, Inc. Classification: POOR Rating: 184.17  
Regulated Entity: RN101743730 Gateway Travel Plaza Classification: POOR Site Rating: 184.17  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 17234  
REGISTRATION  
Location: 1480 WEST FWY, VIDOR, TX, 77662  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: June 21, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 21, 2005 to June 21, 2010  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Elvia Maske Phone: (512) 239 - 0789

## 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: YES

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 06/26/2006

ADMINORDER 2005-2064-WQ-E

Classification: Moderate

Citation: TWC Chapter 26 26.121(a)(1)

Description: Failed to prevent an unauthorized discharge of wastewater from a manhole and lift station on the southeast corner of the Facility. Specifically, the discharge ran across the parking lot into a wetland and into the Neches River Tidal Flat in Segment 0601 of the Neches River Basin.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)

Description: Failed to notify the TCEQ of an accidental discharge which causes or may cause pollution as soon as possible and no later than 24 hours after the occurrence.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(b)(4)(A)

Description: Failed to have a water tight wetwell on the on-site lift station.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(e)(5)

Description: Failed to have a functional audio-visual high level alarm on the lift station.

Classification: Moderate

Citation: 30 TAC Chapter 317 317.3(e)(4)(C)

Description: Failed to have a fence with controlled access around the on-site lift station.

Effective Date: 03/19/2007

ADMINORDER 2006-0609-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

30 TAC Chapter 115, SubChapter C 115.242(3)(A)

5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to operate Stage II system in accordance with the CARB Executive Order.

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vii)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(B)(ii)

Description: Failure to submit to the Commission in a timely manner an accurately completed Self-Certification form.

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)

30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: Failure to possess a valid Self Certification Certificate prior to receiving fuel.

Twenty-one deliveries had been made between the date that the delivery certificate expired and the date that a new delivery certificate was received.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)

30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failure to monitor pressurized piping in an UST system in a manner designed to detect releases from any portion of the piping system.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)

30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)

Description: Failure to have line leak detectors tested at least once per year for performance and operational reliability, and properly calibrate and maintain in accordance with the manufacturer's specifications and recommended procedures.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)

Description: Failure to have records immediately available for inspection upon request by agency personnel.

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. (CEEDS Inv. Track. No.)

1	05/24/2006	(460591)
2	11/14/2006	(518839)
3	04/12/2007	(556057)
4	09/24/2007	(594537)
5	01/10/2008	(610068)
6	04/22/2009	(742423)
7	09/03/2009	(762547)
8	02/08/2010	(788947)
9	06/10/2010	(825742)

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

Date: 02/27/2006 (450568)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(J)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, and free of defects that would impair the effectiveness of the system, including pressure/vacuum relief valves, vapor check valves, or Stage I dry breaks that are inoperative or defective.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to maintain records on site and make immediately available for review upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction at sites ordinarily manned during business hours.

Date: 04/18/2006 (462635)

Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
Description: Failure by Mohomad Kapadia to prevent the unauthorized discharge of sewage into or adjacent to waters of the state except as authorized by rule, permit, or order issued by the commission.

Date: 04/03/2007 (556057)

Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)  
Description: Failed to notify the TCEQ of an accidental discharge which causes or may cause pollution as soon as possible and no later than 24 hours after the occurrence.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 317 317.3(b)(4)(A)

Description: Failed to have a water tight wetwell on the on-site lift station.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 317 317.3(e)(4)(C)

Description: Failed to have a fence with controlled access around the on-site lift station.

Self Report? NO Classification: Major  
Citation: 2A TWC Chapter 7, SubChapter A 7.101  
Ordering Provisions 2.a. - 2.e. ORDER

Description: Failure to Comply with Commission Order Docket 2005-2064-WQ-E.

Date: 09/19/2007 (594537)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)  
30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to operate Stage II system in accordance with the CARB Executive Order.

Self Report? NO Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failure to monitor pressurized piping in an UST system in a manner designed to detect releases from any portion of the piping system.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)

Description: Failure to have records immediately available for inspection upon request by agency personnel.

Self Report? NO Classification: Major  
Citation: 2A TWC Chapter 7, SubChapter A 7.101  
OP's 1-2 ORDER

Description: Failure to comply with Commission Order Docket No. 2006-0609-PST-E.

Date: 01/09/2008 (610068)

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 317 317.3(c)(2)  
Description: Failure by Overseas Enterprises to ensure all systems of collection, treatment, and disposal are properly operated and maintained.

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  
OVERSEAS ENTERPRISES USA,  
INC. DBA GATEWAY TRAVEL  
PLAZA  
RN101743730**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2010-1372-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Overseas Enterprises USA, Inc. dba Gateway Travel Plaza ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 1480 West Freeway in Vidor, Orange County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 15, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand Five Hundred Eighty-Nine Dollars (\$8,589) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Twenty-Seven Dollars (\$227) of the administrative penalty and One Thousand Seven Hundred Seventeen Dollars (\$1,717) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Six Hundred Forty-Five Dollars (\$6,645) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Eighty-Four Dollars (\$184) each and one monthly payment of Two Hundred Five Dollars (\$205). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent conducted the required testing of the Stage II equipment on June 8, 2010, with passing results.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 28, 2010. Specifically, the Stage II annual and triennial compliance testing had not been conducted.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Overseas Enterprises USA, Inc. dba Gateway Travel Plaza, Docket No. 2010-1372-PST-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not

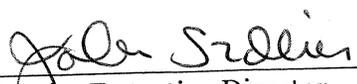
effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

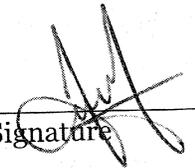
4/12/2011  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

12-01-10  
\_\_\_\_\_  
Date

MUHAMMAD KAPADIA  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Overseas Enterprises USA, Inc. dba Gateway Travel Plaza

PRESIDENT  
\_\_\_\_\_  
Title

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