

**Executive Summary – Enforcement Matter – Case No. 41109
VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart
RN101909463
Docket No. 2011-0205-PST-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Dickinson Food Mart, 750 Farm-to-Market Road 517 West, Dickinson, Galveston County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 3, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$9,423

Amount Deferred for Expedited Settlement: \$1,884

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$224

Total Due to General Revenue: \$7,315

Payment Plan: 35 payments of \$209 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41109
VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart
RN101909463
Docket No. 2011-0205-PST-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 3, 2010

Date(s) of NOE(s): January 28, 2011

Violation Information

1. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to maintain Stage II records at the Station and make them available for review upon request by agency personnel. Specifically, records not available for review included a copy of the California Air Resources Board Executive Order and daily inspections of the Stage II system [30 TEX. ADMIN. CODE § 115.246(1) and (6) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual compliance test had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:

- a. Successfully conducted the required annual Stage II test on December 3, 2010, with passing results;
- b. Successfully conducted in-house Stage II training of current employees on December 4, 2010; and
- c. Submitted documentation certifying that all Stage II records are being maintained at the Station on February 1, 2011.

Technical Requirements:

N/A

**Executive Summary – Enforcement Matter – Case No. 41109
VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart
RN101909463
Docket No. 2011-0205-PST-E**

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Bridgett Lee, Enforcement Division,
Enforcement Team 7, MC 128, (512) 239-2565; Laurie Eaves, Enforcement Division,
MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Atul Jain, President, VARDHMAN INVESTMENT, INC., 3512 Acorn
Wood Way, Houston, Texas 77059
Ajay K. Jain, Vice President, VARDHMAN INVESTMENT, INC., 3512 Acorn Wood Way,
Houston, Texas 77059
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	31-Jan-2011	Screening	1-Feb-2011	EPA Due	
	PCW	11-Feb-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart		
Reg. Ent. Ref. No.	RN101909463		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	41109	No. of Violations	3
Docket No.	2011-0205-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Bridgett Lee
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$10,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **10.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,000**

Notes: Enhancement for two previous NOV's with same/similar violations.

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** **\$2,125**

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

Total EB Amounts: \$552
 Approx. Cost of Compliance: \$1,150
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$8,875**

OTHER FACTORS AS JUSTICE MAY REQUIRE **6.2%** **Adjustment** **\$548**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with violation no. 3.

Final Penalty Amount **\$9,423**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$9,423**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,884**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,539**

Screening Date 1-Feb-2011

Docket No. 2011-0205-PST-E

PCW

Respondent VARDHMAN INVESTMENT, INC. dba Dickinson Foc

Policy Revision 2 (September 2002)

Case ID No. 41109

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101909463

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

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>)	2	10%
	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) 10%

>> 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 previous NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 1-Feb-2011

Docket No. 2011-0205-PST-E

PCW

Respondent VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41109

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101909463

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the December 3, 2010 investigation to the December 4, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes: The Respondent came into compliance on December 4, 2010, prior to the January 28, 2011 Notice of Enforcement ("NOE").

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,256

This violation Final Assessed Penalty (adjusted for limits) \$2,256

Economic Benefit Worksheet

Respondent VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart
Case ID No. 41109
Reg. Ent. Reference No. RN101909463
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
<i>No commas or \$</i>							

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	\$150	3-Dec-2010	4-Dec-2010	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 of training all employees on the operation and maintenance of the Stage II system. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$150

TOTAL

\$0

Screening Date 1-Feb-2011

Docket No. 2011-0205-PST-E

PCW

Respondent VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41109

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101909463

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.246(1) and (6) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain Stage II records at the Station and make them available for review upon request by agency personnel. Specifically, records not available for review included a copy of the California Air Resources Board Executive Order and daily inspections of the Stage II system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes The Respondent came into compliance on February 1, 2011.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$2,654

This violation Final Assessed Penalty (adjusted for limits) \$2,654

Economic Benefit Worksheet

Respondent VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart
Case ID No. 41109
Reg. Ent. Reference No. RN101909463
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
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	3-Dec-2010	1-Feb-2011	0.16	\$4	n/a	\$4
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$4

Screening Date 1-Feb-2011

Docket No. 2011-0205-PST-E

PCW

Respondent VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart

Policy Revision 2 (September 2002)

Case ID No. 411109

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101909463

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

Violation Number 3

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. Specifically, the Stage II annual compliance test had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
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 or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 365 Number of violation days

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

Violation Base Penalty \$5,000

One annual event is recommended for the 12-month period preceding the December 3, 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 came into compliance on December 3, 2010, prior to the January 28, 2011 NOE.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$548

Violation Final Penalty Total \$4,512

This violation Final Assessed Penalty (adjusted for limits) \$4,512

Economic Benefit Worksheet

Respondent VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart
Case ID No. 41109
Reg. Ent. Reference No. RN101909463
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$500	3-Dec-2009	3-Dec-2010	1.92	\$48	\$500	\$548

Notes for AVOIDED costs

Estimated avoided cost for annual testing of the Stage II equipment. The date required is one year prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance

\$500

TOTAL

\$548

Compliance History

Customer/Respondent/Owner-Operator: CN603666165 VARDHMAN INVESTMENT, INC. Classification: AVERAGE Rating: 3.00

Regulated Entity: RN101909463 Dickinson Food Mart Classification: AVERAGE Site Rating: 3.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 66603
REGISTRATION

Location: 750 FM 517 RD W, DICKINSON, TX, 77539

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 01, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 01, 2006 to February 01, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Tate Barrett Phone: (713) 422-8968

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? OWNOPR VARDHMAN INVESTMENT, INC.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWNOPR Atul Enterprises Inc.
5. When did the change(s) in owner or operator occur? 03/10/2010 OWNOPR Atul Enterprises Inc.
6. Rating Date: 9/1/2010 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 04/11/2008 (619042)
 - 2 07/08/2008 (670910)
 - 3 01/28/2011 (880619)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/11/2008 (619042)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TXP-101, Determination of Vapor Space Manifolding of Vapor Recovery Systems at Gasoline Dispensing Facilities, and TXP-103, Determination of Dynamic Pressure Performance (Dynamic

Back-Pressure) of Vapor Recovery Systems

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.222(1)
Description: Failure to ensure that the container is equipped with a submerged fill pipe as defined in Section 101.1 of this title (relating to definitions).

Date: 07/08/2008 (670910)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TXP-101, Determination of Vapor Space Manifolding of Vapor Recovery Systems at Gasoline Dispensing Facilities, and TXP-103, Determination of Dynamic Pressure Performance (Dynamic Back-Pressure) of Vapor Recovery Systems

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
VARDHMAN INVESTMENT, INC.
DBA DICKINSON FOOD MART
RN101909463**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0205-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 VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart ("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 750 Farm-to-Market Road 517 West in Dickinson, Galveston 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 February 2, 2011.
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 Nine Thousand Four Hundred Twenty-Three Dollars (\$9,423) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Twenty-Four Dollars (\$224) of the administrative penalty and One Thousand Eight Hundred Eighty-Four Dollars (\$1,884) 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 Seven Thousand Three Hundred Fifteen Dollars (\$7,315) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Nine Dollars (\$209) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Successfully conducted the required annual Stage II test on December 3, 2010, with passing results;
 - b. Successfully conducted in-house Stage II training of current employees on December 4, 2010; and
 - c. Submitted documentation certifying that all Stage II records are being maintained at the Station on February 1, 2011.
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:

1. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 3, 2010.
2. Failed to maintain Stage II records at the Station and make them available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(1) and (6) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 3, 2010. Specifically, records not available for review included a copy of the California Air Resources Board Executive Order and daily inspections of the Stage II system.
3. Failed to verify proper operation of the Stage II equipment at least once every 12 months, 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 December 3, 2010. Specifically, the Stage II annual compliance test 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: VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart, Docket No. 2011-0205-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.

Att. TATE

VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

J. S. Szolter
For the Executive Director

Date 6/3/2011

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.

Ajay Jain
Signature

Date 4-27-11

ASAT K JAIN
Name (Printed or typed)

Title V.P.

Authorized Representative of

VARDHMAN INVESTMENT, INC. dba Dickinson Food Mart

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.