

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 44361  
Harry Wurzbach Retail, Inc. d/b/a Diamond Express 1  
RN102237534  
Docket No. 2012-1221-PST-E

**Order Type:**

Agreed Order

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

2315 Harry Wurzbach Road, San Antonio, Bexar 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:** February 1, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$22,835

**Total Paid to General Revenue:** \$645

**Total Due to General Revenue:** \$22,190

Payment Plan: 35 payments of \$634

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – Average  
Site/RN – Average by default

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 (PCW 1); September 2011 (PCW 2)

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** March 6, 2012

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** May 31, 2012

**Violation Information**

1. Failed to obtain a UST delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of ownership change [30 TEX. ADMIN. CODE § 334.8(c)(4)(C) and (c)(5)(A)].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].
3. Failed to report a suspected release to the TCEQ within 24 hours of the discovery [30 TEX. ADMIN. CODE § 334.72].
4. Failed to investigate a suspected release of regulated substances within 30 days of discovery [30 TEX. ADMIN. CODE § 334.74].
5. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Immediately:
  - a. Submit a properly completed UST registration and self-certification form and obtain a delivery certificate from the TCEQ;
  - b. Establish and implement a process for reporting a suspected release; and
  - c. Begin maintaining all UST records and ensure that they are made immediately available for inspection upon request by agency personnel.
2. Within 30 days, conduct an investigation of the suspected release and implement appropriate corrective measures.
3. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** October 26, 2012

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Settlement Date:** January 10, 2013

**Contact Information**

**TCEQ Attorneys:** Steven M. Fishburn, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
James Murphy, Public Interest Counsel, (512) 239-6363

**TCEQ SEP Coordinator:** N/A

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

**TCEQ Regional Contact:** Cameron Lopez, San Antonio Regional Office, (210) 490-3096

**Respondent:** Karim Khanmohamed, Director, Harry Wurzbach Retail, Inc., 20 Westerleigh  
San Antonio, Texas 78218

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	11-Jun-2012	<b>Screening</b>	14-Jun-2012	<b>EPA Due</b>	
	<b>PCW</b>	8-Oct-2012				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Harry Wurzbach Retail, Inc. dba Diamond Express 1		
<b>Reg. Ent. Ref. No.</b>	RN102237534		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Major

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	44361	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1221-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 Minimum</b>	\$0	<b>Maximum</b>	\$10,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$7,500**

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

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment due to compliance history.

**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** **\$0**

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

Total EB Amounts	\$239
Approx. Cost of Compliance	\$300

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$7,500**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **3.1%** **Adjustment** **\$235**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

**Final Penalty Amount** **\$7,735**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$7,735**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes: Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$7,735**

**Screening Date** 14-Jun-2012 **Docket No.** 2012-1221-PST-E  
**Respondent** Harry Wurzbach Retail, Inc. dba Diamond Express 1  
**Case ID No.** 44361  
**Reg. Ent. Reference No.** RN102237534  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Rajesh Acharya

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

### 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	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)**

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

**Adjustment Percentage (Subtotal 3)**

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

**Adjustment Percentage (Subtotal 7)**

#### >> Compliance History Summary

**Compliance History Notes**

No adjustment due to compliance history.

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

<b>Screening Date</b>	14-Jun-2012	<b>Docket No.</b>	2012-1221-PST-E	<b>PCW</b>
<b>Respondent</b>	Harry Wurzbach Retail, Inc. dba Diamond Express 1			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	44361			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN102237534			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code § 334.8(c)(4)(C) and (c)(5)(A)

**Violation Description**

Failed to obtain an underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of ownership change. Specifically, the Respondent did not submit the UST registration and self-certification form after the ownership change date of July 30, 2009.

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

**Percent**

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

**Percent**

Matrix Notes

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input checked="" type="text" value="x"/>
single event	<input type="text"/>

**Violation Base Penalty**

Three annual events are recommended.

**Good Faith Efforts to Comply**

**0.0%** Reduction

Before NOV    NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Harry Wurzbach Retail, Inc. dba Diamond Express 1  
**Case ID No.** 44361  
**Reg. Ent. Reference No.** RN102237534  
**Media Violation No.** Petroleum Storage Tank  
 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)	\$100	6-Mar-2012	7-Jan-2013	0.84	\$4	n/a	\$4

**Notes for DELAYED costs**  
 Estimated cost to obtain a delivery certificate by submitting a properly completed UST registration and self-certification form. Date Required is the investigation date. Final Date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	30-Jul-2009	6-Mar-2012	3.52	\$35	\$200	\$235
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 Estimated avoided cost (\$100 per full year) to accurately prepare and submit a UST registration and obtain a TCEQ delivery certificate. Date Required is the ownership change date. Final Date is the investigation date.

**Approx. Cost of Compliance** \$300

**TOTAL** \$239



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	11-Jun-2012	<b>Screening</b>	14-Jun-2012	<b>EPA Due</b>	
	<b>PCW</b>	8-Oct-2012				

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Harry Wurzbach Retail, Inc. dba Diamond Express 1		
<b>Reg. Ent. Ref. No.</b>	RN102237534		
<b>Facility/Site Region</b>	13-San Antonio	<b>Major/Minor Source</b>	Major

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	44361	<b>No. of Violations</b>	4
<b>Docket No.</b>	2012-1221-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 Minimum</b>	\$0	<b>Maximum</b>	\$25,000

**Penalty Calculation Section**

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$15,000**

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

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

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment due to compliance history.

**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** **\$0**

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

Total EB Amounts **\$309**  
 Approx. Cost of Compliance **#NAME?**  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$15,000**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.7%** **Adjustment** **\$100**

Reduces or enhances the Final Subtotal by the indicated percentage.

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

**Final Penalty Amount** **\$15,100**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$15,100**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

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

Notes: Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$15,100**

**Screening Date** 14-Jun-2012**Docket No.** 2012-1221-PST-E**PCW****Respondent** Harry Wurzbach Retail, Inc. dba Diamond Express

Policy Revision 3 (September 2011)

**Case ID No.** 44361

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN102237534**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> )	0	0%
	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)** 0%>> **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**

No adjustment due to compliance history.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 0%>> **Final Compliance History Adjustment****Final Adjustment Percentage \*capped at 100%** 0%

<b>Screening Date</b>	14-Jun-2012	<b>Docket No.</b>	2012-1221-PST-E	<b>PCW</b>
<b>Respondent</b>	Harry Wurzbach Retail, Inc. dba Diamond Express 1			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44361			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102237534			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)			
<b>Violation Description</b>	Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, 16 fuel deliveries were accepted during the period January 9, 2012 through March 8, 2012, without a delivery certificate.			
		<b>Base Penalty</b>	\$25,000	

>> Environmental, Property and Human Health Matrix

<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				<b>Percent</b> 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			<b>Percent</b> 15.0%

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

**Adjustment** \$21,250  
 \$3,750

Violation Events

Number of Violation Events: 1      16 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$3,750

One single event is recommended.

Good Faith Efforts to Comply **0.0%** Reduction \$0

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

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

**Violation Subtotal** \$3,750

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount \$0	Violation Final Penalty Total \$3,775
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$3,775	

## Economic Benefit Worksheet

**Respondent** Harry Wurzbach Retail, Inc. dba Diamond Express 1  
**Case ID No.** 44361  
**Reg. Ent. Reference No.** RN102237534  
**Media Violation No.** Petroleum Storage Tank  
 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

Economic Benefit calculated in accompanying PCW.

### 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 \$0

**TOTAL** \$0

<b>Screening Date</b>	14-Jun-2012	<b>Docket No.</b>	2012-1221-PST-E	<b>PCW</b>
<b>Respondent</b>	Harry Wurzbach Retail, Inc. dba Diamond Express 1			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44361			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102237534			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="15.0%"/>

Matrix Notes

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Harry Wurzbach Retail, Inc. dba Diamond Express 1  
**Case ID No.** 44361  
**Reg. Ent. Reference No.** RN102237534  
**Media Violation No.** Petroleum Storage Tank  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
<b>ONE-TIME avoided costs [3]</b>	\$100	6-Mar-2012	7-Mar-2012	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to report a release. Date Required is the date of the release. Final Date is the date the report was due.

Approx. Cost of Compliance \$100

**TOTAL** \$100

<b>Screening Date</b>	14-Jun-2012	<b>Docket No.</b>	2012-1221-PST-E	<b>PCW</b>
<b>Respondent</b>	Harry Wurzbach Retail, Inc. dba Diamond Express 1			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44361			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102237534			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
		Major		Moderate	Minor
	<b>Release</b>				
Actual	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	<b>Percent</b> <input type="text" value="15.0%"/>	
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="0.0%"/>
<input type="text"/>					

Matrix Notes

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

	Before NOV		NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text"/>	<input type="text" value="(mark with x)"/>	<input type="text"/>

Notes

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Harry Wurzbach Retail, Inc. dba Diamond Express 1  
**Case ID No.** 44361  
**Reg. Ent. Reference No.** RN102237534  
**Media Violation No.** Petroleum Storage Tank  
 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	5-Apr-2012	7-Jan-2013	0.76	\$190	n/a	\$190

Notes for DELAYED costs

Estimated costs to investigate a release. Date Required is the date release investigation was due. Final Date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

**TOTAL** \$190

<b>Screening Date</b>	14-Jun-2012	<b>Docket No.</b>	2012-1221-PST-E	<b>PCW</b>
<b>Respondent</b>	Harry Wurzbach Retail, Inc. dba Diamond Express 1			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	44361			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102237534			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Rajesh Acharya			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

<b>OR</b>	<b>Harm</b>				
		Major	Moderate		Minor
	<b>Release</b>	<input type="text"/>	<input type="text"/>		<input type="text"/>
	<b>Actual</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	<b>Potential</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
		<b>Percent</b>		<input type="text" value="0.0%"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
	<b>Percent</b>				<input type="text" value="15.0%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	x

**Violation Base Penalty**

**Good Faith Efforts to Comply**

Reduction

Before NOV      NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)

**Notes**

**Violation Subtotal**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** Harry Wurzbach Retail, Inc. dba Diamond Express 1  
**Case ID No.** 44361  
**Reg. Ent. Reference No.** RN102237534  
**Media Violation No.** Petroleum Storage Tank  
 4

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	6-Mar-2012	7-Dec-2012	0.76	\$19	n/a	\$19
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 UST records. Date Required is the investigation date. Final Date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$19

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN604054551	Harry Wurzbach Retail, Inc.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN102237534	DIAMOND EXPRESS 1	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		56708
Location:	2315 HARRY WURZBACH RD, SAN ANTONIO, TX, 78209			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	June 14, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 14, 2007 to June 14, 2012			

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?  
Harry Wurzbach Retail, Inc., OPERATOR since 07/30/2009  
SS & G Properties, LLC, OWNER OPERATOR since 03/07/2005  
Star Enterprises, Inc., OWNER OPERATOR since 11/02/2001
4. If **YES**, who was/were the prior owner(s)/operator(s)?  
Rai Petroleum Inc, OPERATOR, 9/8/2008 to 7/30/2009
5. If **YES**, when did the change(s) in owner or operator occur?  
7/30/2009
6. Rating Date: 9/1/2011 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 05/31/2012 (1001250)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - 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  
HARRY WURZBACH RETAIL, INC.  
DBA DIAMOND EXPRESS 1;  
RN102237534**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2012-1221-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Harry Wurzbach Retail, Inc. d/b/a Diamond Express 1 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent 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 2315 Harry Wurzbach Road in San Antonio, Bexar County, Texas (Facility ID No. 56708) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twenty-two thousand eight hundred thirty-five dollars (\$22,835.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid six hundred forty-five dollars (\$645.00) of the administrative penalty. The remaining amount of twenty-two thousand one hundred ninety dollars (\$22,190.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of six hundred thirty-four dollars (\$634.00) 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 and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. 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 contained in this Agreed Order.
9. 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.
10. 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 March 6, 2012, a TCEQ San Antonio Regional Office investigator documented that Respondent:
  - a. Failed to obtain a UST delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of ownership change, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(C) and (c)(5)(A). Specifically, Respondent did not submit the UST registration and self-certification form after the ownership change date of July 30, 2009;
  - b. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i). Specifically, 16 fuel deliveries were accepted during the period from January 9, 2012 through March 8, 2012, without a delivery certificate;
  - c. Failed to report a suspected release to the TCEQ within 24 hours of the discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, on March 6, 2012, a San Antonio Water System ("SAWS") crew repairing a water line experienced gasoline vapors in a utility conduit (or trench) immediately adjacent to the Facility, and Respondent did not report the release;

- d. Failed to investigate a suspected release of regulated substances within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, on March 6, 2012, a SAWS crew repairing a water line experienced gasoline vapors in a utility conduit (or trench) immediately adjacent to the Facility, and Respondent did not investigate the release; and
  - e. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
2. Respondent received notice of the violations on or about June 5, 2012.

### **III. DENIALS**

Respondent generally denies each Allegation in Section II.

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Harry Wurzbach Retail, Inc. d/b/a Diamond Express 1, Docket No. 2012-1221-PST-E" to:  

Financial Administration Division, Revenues Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
2. Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, Respondent shall:
    - i. Submit a properly completed UST registration and self-certification form and obtain a delivery certificate from the TCEQ, in accordance with 30 TEX. ADMIN. CODE § 334.8;
    - ii. Establish and implement a process for reporting a suspected release, in accordance with 30 TEX. ADMIN. CODE § 334.72; and
    - iii. Begin maintaining all UST records and ensure that they are made immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10.
  - b. Within 30 days after the effective date of this Agreed Order, Respondent shall conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74.
  - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering

Provisions Nos. 2.a. and 2.b. The certification shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

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

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

and:

Cameron Lopez, Waste Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Rd.  
San Antonio, Texas 78233-4480

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

7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

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

April 8, 2013  
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 Harry Wurzbach Retail, Inc. d/b/a Diamond Express 1, 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 - Sherali Ali, Director  
Harry Wurzbach Retail, Inc.

1-10-13.  
Date