EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45982
Khalid Ali d/b/a Valley Food Mart 7
RN102352358
Docket No. 2013-0209-PST-E

Order Type:
Agreed Order

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
25003 FM Road 88, Monte Alto, Hidalgo 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: December 20, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: $8,880

Total Paid to General Revenue: $2,880

Total Due to General Revenue: $6,000
Payment Plan: 12 payments of $500 each

Compliance History Classifications:
Person/CN – Unclassified
Site/RN – Unclassified

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 11, 2012; December 5, 2012

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

Date(s) of NOE(s): December 5, 2012

Violation Information

1. Failed to provide corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1)].
2. Failed to monitor USTs for releases at a frequency of a least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the pressurized piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2)].
3. 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:
Conducted the annual piping tightness test, with passing results, on October 1, 2012.

Technical Requirements:
1. Immediately, begin maintaining all UST records.
2. Within 30 days:
   a. Install and implement a corrosion protection system for UST system at the Facility; and
   b. Implement a release detection method for USTs at the Facility.
3. Within 45 days Respondent shall submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed:	June 4, 2013; June 27, 2013
Date Answer(s) Filed:	August 14, 2013
SOAH Referral Date:	October 2, 2013
Hearing Date(s):	
Preliminary Hearing:	November 14, 2013
Evidentiary Hearing:	March 13, 2014 (scheduled)
Settlement Date:	November 22, 2013

Contact Information

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

TCEQ Enforcement Coordinator: Michael Meyer, Enforcement Division, (512) 239-4492

TCEQ Regional Contact: Francisco Chavero, Harlingen Regional Office, (956) 425-6010

Respondent: Khalid Ali, 25003 FM Road 88, Monte Alto, Texas 78538

Respondent's Attorney: Brent E. Cavazos, Law Office of Brent E. Cavazos, 222 E. University Drive, Edinburg, Texas 78539

Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011) *PCW Revision August 3, 2011*

TCEQ

DATES					
Assigned	17-Dec-2012				
PCW	30-Apr-2013	Screening	4-Jan-2013	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	Khalid Ali dba Valley Food Mart 7		
Reg. Ent. Ref. No.	RN102352358		
Facility/Site Region	15 - Harlingen	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	45982	No. of Violations	3
Docket No.	2013-0209-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Meyer
		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)		*Subtotal 1*	$8,750
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 for 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	$632	**Capped at the Total EB $ Amount*	
Approx. Cost of Compliance	$8,118		
SUM OF SUBTOTALS 1-7		*Final Subtotal*	$8,750
OTHER FACTORS AS JUSTICE MAY REQUIRE	1.5%	*Adjustment*	$130
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes	Enhancement to capture the avoided cost of compliance associated with violation no. 2.		
		Final Penalty Amount	$8,880
STATUTORY LIMIT ADJUSTMENT		*Final Assessed Penalty*	$8,880
DEFERRAL	0.0% Reduction	*Adjustment*	$0
Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*			
Notes	Deferral not offered for non-expedited settlement.		
PAYABLE PENALTY			$8,880

Screening Date	4-Jan-2013	**Docket No.**	2013-0209-PST-E	**PCW**
Respondent	Khalid Ali dba Valley Food Mart 7			*Policy Revision 3 (September 2011)*
Case ID No.	45982			*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102352358			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Michael Meyer			

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
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)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 0%

Screening Date	4-Jan-2013	**Docket No.**	2013-0209-PST-E	**PCW**
Respondent	Khalid Ali dba Valley Food Mart 7			*Policy Revision 3 (September 2011)*
Case ID No.	45982			*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102352358			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Michael Meyer			

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.49(a)(1) and Tex. Water Code § 26.3475(d)

Violation Description Failed to provide corrosion protection for the underground storage tank ("UST") system.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 $21,250

$3,750

Violation Events

Number of Violation Events: 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One monthly event is recommended from the December 5, 2012 record review to the January 4, 2013 screening date.

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

Economic Benefit (EB) for this violation

Estimated EB Amount $407

Statutory Limit Test

Violation Final Penalty Total $3,806

This violation Final Assessed Penalty (adjusted for limits) $3,806

Economic Benefit Worksheet

Respondent Khalid Ali dba Valley Food Mart 7
Case ID No. 45982
Reg. Ent. Reference No. RN102352358
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	$6,000	11-Sep-2012	31-Aug-2013	0.97	$19	$388	$407
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to install a corrosion protection system and test the system. The date required is the investigation date, and the 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	$6,000	TOTAL	$407

Screening Date	4-Jan-2013	**Docket No.** 2013-0209-PST-E	**PCW**
Respondent	Khalid Ali dba Valley Food Mart 7		*Policy Revision 3 (September 2011)*
Case ID No.	45982		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102352358		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Michael Meyer		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and 334.50(b)(2) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent did not conduct the annual piping tightness test.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm: Major	Moderate	Minor
	Actual			
	Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 $21,250

$3,750

Violation Events

Number of Violation Events: 1 — 30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One monthly event is recommended from the December 5, 2012 record review to the January 4, 2013 screening date.

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

Economic Benefit (EB) for this violation

Estimated EB Amount $202

Statutory Limit Test

Violation Final Penalty Total $3,806

This violation Final Assessed Penalty (adjusted for limits) $3,806

Economic Benefit Worksheet

Respondent Khalid Ali dba Valley Food Mart 7
Case ID No. 45982
Reg. Ent. Reference No. RN102352358
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$1,500	11-Sep-2012	31-Aug-2013	0.97	$73	n/a	$73
Notes for DELAYED costs	Estimated cost to monitor the UST for releases. The date required is the investigation date and the 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]	$118	11-Sep-2011	1-Oct-2012	1.98	$12	$118	$130
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated cost to conduct the annual piping tightness test. The date required is one year prior to the investigation date and the final date is the date of compliance.						

Approx. Cost of Compliance $1,618

TOTAL $202

Screening Date	4-Jan-2013	**Docket No.** 2013-0209-PST-E	**PCW**
Respondent	Khalid Ali dba Valley Food Mart 7		*Policy Revision 3 (September 2011)*
Case ID No.	45982		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102352358		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Michael Meyer		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Violation Description Failed to maintain UST records and make them immediately available for inspection upon request by UST personnel.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 1

30 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,250

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 $1,250

Economic Benefit (EB) for this violation

Estimated EB Amount $22

Statutory Limit Test

Violation Final Penalty Total $1,269

This violation Final Assessed Penalty (adjusted for limits) $1,269

Economic Benefit Worksheet

Respondent Khalid Ali dba Valley Food Mart 7
Case ID No. 45982
Reg. Ent. Reference No. RN102352358
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System	$500	11-Sep-2012	31-Jul-2013	0.88	$22	n/a	$22
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. The date required is the investigation date and the 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 $22

The TCEQ is committed to accessibility.
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.

Compliance History Report

PUBLISHED Compliance History Report for CN604142521, RN102352358, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN604142521, Ali, Khalid	**Classification:** UNCLASSIFIED	**Rating:** -----
Regulated Entity:	RN102352358, VALLEY FOOD MART 7	**Classification:** UNCLASSIFIED	**Rating:** -----
Complexity Points:	2	**Repeat Violator:**	NO
CH Group:	14 - Other		
Location:	25003 FM RD 88 MONTE ALTO, TX 78538-3414, HIDALGO COUNTY		
TCEQ Region:	REGION 15 - HARLINGEN		

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 18409

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: January 31, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 31, 2008 to January 31, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Michael Meyer **Phone:** (512) 239-4492

Site and Owner/Operator History:

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 for #2, who is the current owner/operator?	ALI, KHALID OPERATOR since 12/1/2011 PERVEEN, ZAHIDA OWNER since 12/1/2011
4) If YES for #2, who was/were the prior owner(s)/operator(s)?	MANIMALA MANAGEMENT LLC, OWNER OPERATOR, 7/29/2010 to 11/30/2011 AKASS Enterprises, Inc, OWNER, 5/23/2009 to 7/28/2010 SEBASTIAN, SREENY, OPERATOR, 5/18/2009 to 7/28/2010 FKD Valley Holdings, LLC, OWNER, 5/18/2009 to 5/23/2009 FKD Valley Holdings, LLC, OWNER OPERATOR, 3/7/2007 to 5/22/2009
5) If **YES**, when did the change(s) in owner or operator occur?	12/1/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):
A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.
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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING KHALID ALI D/B/A VALLEY FOOD MART 7; RN102352358	**§ § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2013-0209-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 Khalid Ali d/b/a Valley Food Mart 7 ("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, represented by Brent E. Cavazos of the Law Office of Brent E. Cavazos, 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 25003 FM Road 88 in Monte Alto, Hidalgo County, Texas (Facility ID No. 18409) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.

2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.

3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of eight thousand eight hundred eighty dollars ($8,880.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two thousand eight hundred eighty dollars ($2,880.00) of the administrative penalty. The remaining amount of six thousand dollars ($6,000.00) of the administrative penalty shall be payable in twelve (12) monthly payments of five hundred dollars ($500.00) 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.

11. The Executive Director recognizes that Respondent conducted the annual piping tightness test, with passing results, on October 1, 2012.

II. ALLEGATIONS

1. During an investigation conducted on September 11, 2012, a UT-Arlington PST Program investigator documented that Respondent:

   a. Failed to provide corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)(1);

   b. Failed to monitor USTs for releases at a frequency of a least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the pressurized piping associated with the UST system by failing to conduct the annual piping tightness test, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2); and

   c. 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 December 10, 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: Khalid Ali d/b/a Valley Food Mart 7, Docket No. 2013-0209-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 begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10.

b. Within 30 days after the effective date of this Agreed Order, Respondent shall:

i. Install and implement a corrosion protection system for the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.49; and

ii. Implement a release detection method for the USTs at the Facility, in accordance with 30 TEX. WATER CODE § 334.50.

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., 2.b.i., and 2.b.ii. 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:

Francisco Chavero, Waste Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 W. Jefferson Ave.
Harlingen TX 78550-5247

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

March 27, 2014
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 Khalid Ali d/b/a Valley Food Mart 7, 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 - Khalid Ali, Operator
Khalid Ali d/b/a Valley Food Mart 7

11/22/13
Date