

Executive Summary – Enforcement Matter – Case No. 47665
Virginia Cover dba Mr. C Food Mart 1
RN101872927
Docket No. 2013-1763-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Mr. C Food Mart 1, 11125 Old Corpus Christi Highway, San Antonio, Bexar 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: January 17, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,100

Amount Deferred for Expedited Settlement: \$4,220

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$16,880

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 47665
Virginia Cover dba Mr. C Food Mart 1
RN101872927
Docket No. 2013-1763-PST-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: April 18, 2013
Date(s) of NOE(s): August 26, 2013

Violation Information

1. Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
2. Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, Automatic Tank Gauge ("ATG") records for March 2013 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].
3. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, ATG records for March 2013 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent implemented a release detection method for all USTs on October 1, 2013.

Technical Requirements:

The Order will require Respondent to:

- a. Immediately, establish and implement a process for reporting and investigating suspected releases;
- b. Within 30 days, conduct an investigation of the suspected release and implement appropriate corrective measures; and
- c. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a. and b.

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

Executive Summary – Enforcement Matter – Case No. 47665
Virginia Cover dba Mr. C Food Mart 1
RN101872927
Docket No. 2013-1763-PST-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Keith Frank, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1203; Candy Garrett, Enforcement Division, MC 219, (512) 239-1458

TCEQ SEP Coordinator: N/A

Respondent: Virginia Cover, Owner, Mr. C Food Mart 1, 8500 Stuart Road, San Antonio, Texas 78263

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Sep-2013	Screening	17-Sep-2013	EPA Due	
	PCW	24-Sep-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	Virginia Cover dba Mr. C Food Mart 1		
Reg. Ent. Ref. No.	RN101872927		
Facility/Site Region	13-San Antonio	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47665	No. of Violations	3
Docket No.	2013-1763-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Theresa Stephens
		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** **\$23,750**

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%** Reduction **Subtotals 2, 3, & 7** **-\$2,375**

Notes: Reduction for high performer classification.

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** **\$375**

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

Total EB Amounts: \$385
Approx. Cost of Compliance: \$6,600
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$21,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.5%** 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. 3.

Final Penalty Amount **\$21,100**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$21,100**

DEFERRAL **20.0%** Reduction Adjustment **-\$4,220**

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 **\$16,880**

Screening Date 17-Sep-2013

Docket No. 2013-1763-PST-E

PCW

Respondent Virginia Cover dba Mr. C Food Mart 1

Policy Revision 3 (September 2011)

Case ID No. 47665

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101872927

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Stephens

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

Reduction for high performer classification.

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100%

Screening Date 17-Sep-2013

Docket No. 2013-1763-PST-E

PCW

Respondent Virginia Cover dba Mr. C Food Mart 1

Policy Revision 3 (September 2011)

Case ID No. 47665

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101872927

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Stephens

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

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

22 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,750

One monthly event is recommended, from the August 26, 2013 record review to the September 17, 2013 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$375

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

Notes The Respondent came into compliance on October 1, 2013, after the Notice of Enforcement dated August 26, 2013.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$3,014

This violation Final Assessed Penalty (adjusted for limits) \$3,014

Economic Benefit Worksheet

Respondent Virginia Cover dba Mr. C Food Mart 1
Case ID No. 47665
Reg. Ent. Reference No. RN101872927
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	18-Apr-2013	1-Oct-2013	0.45	\$34	n/a	\$34

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases. The date required is the investigation date, 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 \$1,500

TOTAL \$34

Screening Date 17-Sep-2013

Docket No. 2013-1763-PST-E

PCW

Respondent Virginia Cover dba Mr. C Food Mart 1

Policy Revision 3 (September 2011)

Case ID No. 47665

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101872927

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Stephens

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description

Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, Automatic Tank Gauge ("ATG") records for March 2013 indicated a suspected release that was not investigated.

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 5

139 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$18,750

Five monthly events are recommended from the release investigation due date of May 1, 2013 to the September 17, 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 \$18,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$251

Violation Final Penalty Total \$16,955

This violation Final Assessed Penalty (adjusted for limits) \$16,955

Economic Benefit Worksheet

Respondent Virginia Cover dba Mr. C Food Mart 1
Case ID No. 47665
Reg. Ent. Reference No. RN101872927
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	1-May-2013	3-May-2014	1.01	\$251	n/a	\$251

Notes for DELAYED costs

Estimated cost to investigate a suspected release. The date required is the date the release investigation was due, 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$251

Screening Date 17-Sep-2013

Docket No. 2013-1763-PST-E

PCW

Respondent Virginia Cover dba Mr. C Food Mart 1

Policy Revision 3 (September 2011)

Case ID No. 47665

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101872927

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Stephens

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, ATG records for March 2013 indicated a suspected release that was not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$1,130

This violation Final Assessed Penalty (adjusted for limits) \$1,130

Economic Benefit Worksheet

Respondent Virginia Cover dba Mr. C Food Mart 1
Case ID No. 47665
Reg. Ent. Reference No. RN101872927
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$100	1-Apr-2013	2-Apr-2013	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. The date required is the date the suspected release was discovered, and the final date is the date the report was due.

Approx. Cost of Compliance

\$100

TOTAL

\$100



Compliance History Report

PENDING Compliance History Report for CN603718297, RN101872927, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN603718297, Cover, Virginia	Classification:	HIGH	Rating:	0.00
Regulated Entity:	RN101872927, MR C FOOD MART 1	Classification:	HIGH	Rating:	0.00
Complexity Points:	4	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	11125 OLD CORPUS CHRISTI HWY SAN ANTONIO, TX 78223-9311, BEXAR COUNTY				
TCEQ Region:	REGION 13 - SAN ANTONIO				
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 38986				
Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year:	2013	Rating Date:	09/01/2013
Date Compliance History Report Prepared:	September 24, 2013				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	September 24, 2008 to September 24, 2013				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Theresa Stephens			Phone:	(512) 239-2540

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? COVER, VIRGINIA OWNER OPERATOR since 8/1/2009
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? Mr. C Food Mart, OPERATOR, 9/1/1987 to 7/31/2009
COVER, DONALD R, OWNER, 9/1/1987 to 7/31/2009
- 5) If YES, when did the change(s) in owner or operator occur? 8/1/2009

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
VIRGINIA COVER DBA MR. C
FOOD MART 1
RN101872927**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2013-1763-PST-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Virginia Cover dba Mr. C Food Mart 1 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 11125 Old Corpus Christi Highway in San Antonio, Bexar County, Texas (the "Facility").
2. The Respondent's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Executive Director 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 August 31, 2013.
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 Twenty-One Thousand One Hundred Dollars (\$21,100) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). The Respondent has paid Sixteen Thousand Eight Hundred Eighty Dollars (\$16,880) of the administrative penalty and Four Thousand Two Hundred Twenty Dollars (\$4,220) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes the Respondent implemented a release detection method for all USTs on October 1, 2013.
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 Facility, the Respondent is alleged to have:

1. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 18, 2013, and a record review conducted on August 26, 2013.
2. Failed to investigate a suspected release of regulated substance within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on April 18, 2013. Specifically, Automatic Tank Gauge ("ATG") records for March 2013 indicate a suspected release that was not investigated.
3. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation

conducted on April 18, 2013. Specifically, ATG records for March 2013 indicated a suspected release that was not reported.

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: Virginia Cover dba Mr. C Food Mart 1, Docket No. 2013-1763-PST-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, establish and implement a process for reporting and investigating suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.72;
 - b. Within 30 days after the effective date of this Agreed Order, conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
 - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. 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 Facility operations referenced in this Agreed Order.
4. 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. 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.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pomona
For the Executive Director

3/6/14
Date

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

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

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

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

Virginia Cover
Signature

11/30/13
Date

Virginia COVER
Name (Printed or typed)
Authorized Representative of
Virginia Cover dba Mr. C Food Mart 1

Owner
Title

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