

M.I.S C-STORE L.L.C.  
RN102346202  
Docket No. 2014-1465-PST-E

**Order Type:**

Agreed Order

**Media:**

PST

**Small Business:**

Yes

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

730 South Colorado Street, Lockhart, Caldwell 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 12, 2016

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$10,117

**Total Paid to General Revenue:** \$282

**Total Due to General Revenue:** \$9,835

Payment Plan: 35 payments of \$281 each

**Compliance History Classifications:**

Person/CN – High

Site/RN – High

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**M.I.S C-STORE L.L.C.**

RN102346202

Docket No. 2014-1465-PST-E

**Investigation Information**

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** July 23, 2014  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** September 24, 2014

**Violation Information**

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) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
2. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C)].
3. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4)].
4. Failed to maintain all spill and overflow prevention devices in good operating condition [30 TEX. ADMIN. CODE § 334.51(a)(6)].
5. Failed to comply with UST operator training requirements [30 TEX. ADMIN. CODE § 334.601(b)].

**Corrective Actions/Technical Requirements****Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

N/A – Respondent no longer operates the UST system at the Facility as of February 20, 2015.

**Litigation Information**

**Date Petition(s) Filed:** May 22, 2015; September 28, 2015  
**Date Answer Filed:** June 4, 2015  
**SOAH Referral Date:** July 13, 2015  
**Hearing Date(s):**  
Preliminary hearing: September 8, 2015  
Evidentiary hearing: January 13, 2016 (scheduled)  
**Settlement Date:** December 23, 2015

**Contact Information**

**TCEQ Attorneys:** Jess Robinson, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** John Duncan, Enforcement Division, (512) 239-2720

**TCEQ Regional Contact:** David Mann, Austin Regional Office, (512) 339-2929

**Respondent Contact:** Barkat Ali, Member, M.I.S C-STORE L.L.C., 16811 Huttons Court Lane, Richmond, Texas 77407-2606

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	29-Sep-2014	<b>Screening</b>	2-Oct-2014	<b>EPA Due</b>	
	<b>PCW</b>	15-Dec-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	M.I.S C-STORE L.L.C.
<b>Reg. Ent. Ref. No.</b>	RN102346202
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	4
<b>Enf./Case ID No.</b>	49435	<b>Order Type</b>	1660
<b>Docket No.</b>	2014-1465-PST-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	John Duncan
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$10,000
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	-10.0% Reduction	<b>Subtotals 2, 3, &amp; 7</b>	-\$1,000
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Notes: Reduction for High Performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,161
Estimated Cost of Compliance	\$2,750

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$9,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	12.4%	<b>Adjustment</b>	\$1,117
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance associated with violation nos. 2, 3, and 4.

<b>Final Penalty Amount</b>	\$10,117
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,117
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$10,117
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**Screening Date** 2-Oct-2014

**Docket No.** 2014-1465-PST-E

**PCW**

**Respondent** M.I.S C-STORE L.L.C.

Policy Revision 4 (April 2014)

**Case ID No.** 49435

PCW Revision March 26, 2014

**Reg. Ent. Reference No.** RN102346202

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** John Duncan

### 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 judgments 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)**

High Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

Reduction for High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%

<b>Screening Date</b>	2-Oct-2014	<b>Docket No.</b>	2014-1465-PST-E	<b>PCW</b>	
<b>Respondent</b>	M.I.S C-STORE L.L.C.			<i>Policy Revision 4 (April 2014)</i>	
<b>Case ID No.</b>	49435			<i>PCW Revision March 26, 2014</i>	
<b>Reg. Ent. Reference No.</b>	RN102346202				
<b>Media [Statute]</b>	Petroleum Storage Tank				
<b>Enf. Coordinator</b>	John Duncan				
<b>Violation Number</b>	1				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)				
<b>Violation Description</b>	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).				
		<b>Base Penalty</b>	\$25,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential	x			<b>Percent</b> 15.0%
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
					<b>Percent</b> 0.0%
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants that would exceed levels that are protective of human health or environmental receptors as a result of the violation.				
		<b>Adjustment</b>	\$21,250		
			\$3,750		
<b>Violation Events</b>					
	<b>Number of Violation Events</b>	1	71	<b>Number of violation days</b>	
		daily			
		weekly			
		monthly			
		quarterly	x		
		semiannual			
		annual			
		single event			
<i>mark only one with an x</i>					<b>Violation Base Penalty</b> \$3,750
	One quarterly event is recommended from the July 23, 2014 investigation to the October 2, 2014 screening date.				
<b>Good Faith Efforts to Comply</b>	0.0%		<b>Reduction</b>	\$0	
		Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer		
	Extraordinary				
	Ordinary				
	N/A	x	(mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.				
		<b>Violation Subtotal</b>	\$3,750		
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
	<b>Estimated EB Amount</b>	\$44	<b>Violation Final Penalty Total</b>	\$3,794	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$3,794		

# Economic Benefit Worksheet

**Respondent** M.I.S C-STORE L.L.C.  
**Case ID No.** 49435  
**Reg. Ent. Reference No.** RN102346202  
**Media Violation No.** 1  
**Media** Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	23-Jul-2014	20-Feb-2015	0.58	\$44	n/a	\$44

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 the the Facility was sold.

### 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	<b>TOTAL</b>	\$44
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**Screening Date** 2-Oct-2014  
**Respondent** M.I.S C-STORE L.L.C.  
**Case ID No.** 49435  
**Reg. Ent. Reference No.** RN102346202  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** John Duncan

**Docket No.** 2014-1465-PST-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 2

**Rule Cite(s)** 30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4) and Tex. Water Code § 26.3475(d)

**Violation Description** Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial testing had not been conducted.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0.0%

**Matrix Notes** Human health or the environment will or could be exposed to pollutants that 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 71 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 for the period preceding the July 23, 2014 investigation.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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**

**Statutory Limit Test**

**Estimated EB Amount** \$721

**Violation Final Penalty Total** \$3,794

**This violation Final Assessed Penalty (adjusted for limits)** \$3,794

## Economic Benefit Worksheet

**Respondent** M.I.S C-STORE L.L.C.  
**Case ID No.** 49435  
**Reg. Ent. Reference No.** RN102346202  
**Media Violation No.** Petroleum Storage Tank  
 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	23-Jul-2011	20-Feb-2015	4.50	\$113	\$500	\$613
Other (as needed)	\$100	24-May-2014	20-Feb-2015	1.66	\$8	\$100	\$108

Notes for AVOIDED costs

Estimated avoided cost for conducting the triennial test (\$500). The Date Required is three years prior to the investigation date and the Final Date is the date the Facility was sold. Estimated avoided cost to conduct bimonthly inspections of the rectifier and other components of the cathodic protection system (\$100). The Date Required is 60 days prior to the investigation date and the Final Date is the date the Facility was sold.

Approx. Cost of Compliance \$600

**TOTAL** \$721

**Screening Date** 2-Oct-2014  
**Respondent** M.I.S C-STORE L.L.C.  
**Case ID No.** 49435  
**Reg. Ent. Reference No.** RN102346202  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** John Duncan

**Docket No.** 2014-1465-PST-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 3

**Rule Cite(s)**

30 Tex. Admin. Code § 334.51(a)(6)

**Violation Description**

Failed to maintain all spill and overfill prevention devices in good operating condition. Specifically, the spill bucket for the regular unleaded tank was damaged, corroded, and contained debris.

**Base Penalty** \$25,000

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

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

**Percent** 5.0%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$23,750

\$1,250

**Violation Events**

Number of Violation Events 1

71 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

**Violation Base Penalty** \$1,250

One quarterly event is recommended from the July 23, 2014 investigation to the October 2, 2014 screening date.

**Good Faith Efforts to Comply**

0.0%

Reduction \$0

Before NOE/NOV NOE/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** \$305

**Violation Final Penalty Total** \$1,265

**This violation Final Assessed Penalty (adjusted for limits)** \$1,265

# Economic Benefit Worksheet

**Respondent** M.I.S C-STORE L.L.C.  
**Case ID No.** 49435  
**Reg. Ent. Reference No.** RN102346202  
**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)				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	\$500	23-Jul-2014	20-Feb-2015	0.58	\$15	\$290	\$305
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

Estimated avoided cost to repair or replace the spill bucket for the regular unleaded tank. The Date Required is the investigation date and the Final Date is the date the Facility was sold.

Approx. Cost of Compliance \$500

**TOTAL** \$305

**Screening Date** 2-Oct-2014  
**Respondent** M.I.S C-STORE L.L.C.  
**Case ID No.** 49435  
**Reg. Ent. Reference No.** RN102346202  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** John Duncan

**Docket No.** 2014-1465-PST-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**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="5.0%"/>
	Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	

>> **Programmatic Matrix**

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

**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 checked="" 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 NOE/NOV	NOE/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** M.I.S C-STORE L.L.C.  
**Case ID No.** 49435  
**Reg. Ent. Reference No.** RN102346202  
**Media Violation No.** 4  
 Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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	\$150	23-Jul-2014	20-Feb-2015	0.58	\$4	\$87	\$91
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

Estimated avoided cost to complete operator training. The Date Required is the investigation date and the Final Date is the date the Facility was sold.

Approx. Cost of Compliance \$150

**TOTAL** \$91

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 CN603546946, RN102346202, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603546946, M.I.S C-Store L.L.C. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN102346202, Lockhart Market **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 3 **Repeat Violator:** NO

**CH Group:** 01 - Gas Stations with convenience Stores and other Gas Stations

**Location:** 730 S COLORADO ST LOCKHART, TX 78644-3104, CALDWELL COUNTY

**TCEQ Region:** REGION 11 - AUSTIN

**ID Number(s):** **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 27496

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** September 14, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** October 02, 2009 to October 02, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**  
**Name:** John Duncan **Phone:** (512) 239-2720

## 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? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## 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.):**

Item 1 February 14, 2011 (887911)

### **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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
M.I.S C-STORE L.L.C.;  
RN102346202**

**§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2014-1465-PST-E**

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

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding M.I.S C-STORE L.L.C. ("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 owned and operated, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system at a convenience store with retail sales of gasoline located at 730 South Colorado Street in Lockhart, Caldwell County, Texas (Facility ID No. 27496) (the "Facility"). The USTs at the Facility were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contained a regulated substance as defined in the TCEQ's rules.
2. The Executive Director and Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to the TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of ten thousand one hundred seventeen dollars (\$10,117.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two hundred eighty-two dollars (\$282.00) of the penalty. The remaining amount of nine thousand eight hundred thirty-five dollars (\$9,835.00) shall be paid in thirty-five (35) monthly payments of two hundred eighty-one dollars (\$281.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may 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 Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN.

CODE § 70.10(a). 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.

6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent no longer operates the UST system at the Facility as of February 20, 2015.

## **II. ALLEGATIONS**

1. During an investigation conducted on July 23, 2014, an investigator documented that Respondent:
  - a. 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 TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A);
  - b. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C);
  - c. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(4). Specifically, the triennial testing had not been conducted;
  - d. Failed to maintain all spill and overflow prevention devices in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6). Specifically, the spill bucket for the regular unleaded tank was damaged, corroded, and contained debris; and
  - e. Failed to comply with UST operator training requirements, in violation of 30 TEX. ADMIN. CODE § 334.601(b).

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

## **IV. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The

Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations not raised here. Penalty payments shall be made payable to the TCEQ and shall be sent with the notation "Re: M.I.S C-STORE L.L.C., Docket No. 2014-1465-PST-E" to:

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

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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.
5. If Respondent fails to comply with any of the Ordering Provisions in this 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 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. This 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 Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

PAY TO THE ORDER  
OF STATE COMPTROLLER  
TCEQ

611247 428

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



March 4, 2014

For the Executive Director

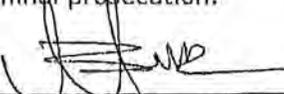
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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
- The 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 --Barkat Ali, Member  
M.I.S C-STORE L.L.C.  
16811 Huttons Court Lane  
Richmond, Texas 77407-2606

12/23/14  
Date

If mailing address has changed, please check this box and provide the new address below: