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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-1852-PST-E TCEQ ID: RN103995916 CASE NO.: 27199
RESPONDENT NAME: 4A INVESTMENTS, LTD. DBA 4A FOOD MART CITGO

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2881 Farm-to-Market 157 North, Mansfield, Tarrant County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 9, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC 175, (512) 239-6500; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Section II, MC 219, (512) 239-2134 TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903 Respondent: Mr. Suman Nepal, Manager, 4A Investments, Ltd., 5464 Northbrook Drive, Dallas, Texas 75220 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigations Relating to this Case: June 28, 2005</p> <p>Date of NOE Relating to this Case: July 22, 2005</p> <p>Background Facts: An EDPRP was filed on June 30, 2006. Respondent received notice of the EDPRP on July 6, 2006. A signed Agreed Order was received on April 12, 2007.</p> <p>PST:</p> <p>1. Failed to provide a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2. Failed to monitor the piping associated with the UST system in a manner designed to detect releases from any portion of the piping system [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3. Failed to have the line leak detectors tested at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(c)(1)].</p>	<p>Total Assessed: \$20,250</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Paid/Due to General Revenue: \$1,000/\$19,250</p> <p>The Respondent has paid \$1,000 of the administrative penalty. The remaining amount of \$19,250 shall be payable in 35 monthly payments of \$550 each.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station in response to this enforcement action:</p> <ol style="list-style-type: none"> The line leak detectors were tested on September 3, 2005. The product lines were tested on September 3, 2005. UST ID numbers were affixed to the fill tubes. The Stage II system tests were conducted in September and December, 2005. Began monthly Stage II inspections in January 2006. Repaired the damaged Stage I dry break. Marked the top of each fill tube or nonremovable point in the immediate area of the fill tube of each UST. <p>Technical Requirements</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Install and implement a release detection method; Begin maintaining an appropriate copy of the CARB Executive Order at the Station; Begin reconciling inventory control records on a monthly basis sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to reconcile inventory control records on a monthly basis, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a)].</p> <p>5. Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>6. Failed to maintain a copy of the applicable California Air Resource Board Executive Order ("CARB") for the Stage II Vapor Recovery System and any related components installed at the Station. Specifically, at the time of the investigation, the CARB Executive Order was not available for review [30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>7. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the vapor recovery test due by October 13, 2004 had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>8. Failed to conduct monthly inspections of the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>9. Failed to maintain the Stage II Vapor Recovery System in proper operating condition and free of defects. Specifically, at the time of the investigation, the Stage I dry break was damaged [30 TEX. ADMIN. CODE § 115.242(3)(J) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>10. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>d. Post operating instructions conspicuously on the front of each gasoline dispensing pump.</p> <p>2. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 1.a. through 1.d.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

DATES	Assigned	01-Aug-2005	Screening	10-Aug-2005	EPA Due	
	PCW	17-Jul-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	4A Investments, Ltd. dba 4A Food Mart Citgo
Reg. Ent. Ref. No.	RN103995916
Facility/Site Region	4-Dallas/Fort Worth <input type="button" value="<"/>
Major/Minor Source	Major Source <input type="button" value="<"/>

CASE INFORMATION			
Enf./Case ID No.	27199	No. of Violations	6
Docket No.	2005-1852-PST-E	Order Type	1660 <input type="button" value="<"/>
Media Program(s)	Petroleum Storage Tank <input type="button" value="<"/>	Enf. Coordinator	Suzanne Walrath
Multi-Media		EC's Team	Enforcement Team 7 <input type="button" value="<"/>
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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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.

Compliance History	-10% Enhancement	Subtotals 2, 3, & 7	-\$2,250
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Notes: Reduction recommended due to High Performer classification.

Culpability	No <input type="button" value="<"/>	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the criteria for culpability.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with a small x)
Notes	The respondent is not yet in compliance.	

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$8,877	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$12,300	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$20,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$20,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,250
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DEFERRAL	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is offered with non-expedited cases.

PAYABLE PENALTY	\$20,250
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Screening Date	10-Aug-2005	Docket No.	2005-1852-PST-E	PCW
Respondent	4A Investments, Ltd. dba 4A Food Mart Citgo		Policy Revision 2 (September 2002)	
Case ID No.	27199	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN103995916			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written 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)</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

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

Screening Date	10-Aug-2005	Docket No.	2005-1852-PST-E	PCW
Respondent	4A Investments, Ltd. dba 4A Food Mart Citgo			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	27199			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN103995916			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(a)(1)(A), (b)(2), (b)(2)(A)(i)(III) and (d)(1)(B)(ii)			
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(a) and (c)(1)			
Violation Description	Failure to provide a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment. Specifically, the respondent failed to monitor the piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. In addition, the respondent failed to have the line leak detectors tested at least once per year for performance and operational reliability. Also, the respondent failed to reconcile inventory control records on a monthly basis, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.			
	Base Penalty	\$10,000		

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

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential	x		
				Percent 50%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent

Matrix Notes
 Failing to monitor the UST system for releases could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events 1

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

One quarterly event is recommended based on the June 28, 2005 investigation date, and the August 10, 2005 screening date.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$7,961

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet

Respondent 4A Investments, Ltd. dba 4A Food Mart Citgo
Case ID No. 27199
Reg. Ent. Reference No. RN103995916
Media [Statute] 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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$4,500	28-Jun-2005	31-Jan-2008	2.6	\$39	\$778	\$817
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to monitor USTs for releases. Date Required is the date of investigation. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$3,000	28-Jun-2005	30-Aug-2006	1.2	\$176	\$3,518	\$3,694
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$3,000	28-Jan-2005	31-Jan-2008	3.0	\$450	\$3,000	\$3,450
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: Estimated avoided costs to test line leak detectors and product lines, and to reconcile inventory control records on a monthly basis. Date Required is the date of investigation. Final Dates are the dates of compliance for the testing, and estimated date of compliance for reconciling inventory control records.

Approx. Cost of Compliance \$10,500

TOTAL \$7,961

Screening Date	10-Aug-2005	Docket No.	2005-1852-PST-E	PCW
Respondent	4A Investments, Ltd. dba 4A Food Mart Citgo		Policy Revision 2 (September 2002)	
Case ID No.	27199	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN103995916			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(C)			
Secondary Rule Cite(s)				
Violation Description	Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.			
Base Penalty	\$10,000			

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

		Harm			
Release	Major	Moderate	Minor		Percent
Actual					
Potential					

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			25%

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

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events: 1

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$2,500

One single event is recommended based on the June 28, 2005 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$8	Violation Final Penalty Total: \$2,250
This violation Final Assessed Penalty (adjusted for limits): \$2,250	

Economic Benefit Worksheet

Respondent: 4A Investments, Ltd. dba 4A Food Mart Citgo
Case ID No.: 27199
Reg. Ent. Reference No.: RN103995916
Media [Statute]: Petroleum Storage Tank
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	28-Jun-2005	30-Aug-2006	1.2	\$0	\$8	\$8
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the amount required to permanently affix a metal label to each UST fill tube. Date Required is the date of investigation. Final Date is the date compliance was achieved.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance

TOTAL

Screening Date	10-Aug-2005	Docket No.	2005-1852-PST-E	PCW
Respondent	4A Investments, Ltd. dba 4A Food Mart Citgo			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	27199			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN103995916			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			
Violation Number	3			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.246(1)			
Secondary Rule Cite(s)	Texas Health & Safety Code § 382.085(b)			
Violation Description	Failure to maintain a copy of the applicable California Air Resource Board Executive Order ("CARB") for the Stage II vapor recovery system and any related components installed at the Station. Specifically, at the time of the investigation, the CARB Executive Order was not available for review.			
	Base Penalty	\$10,000		

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent 25%
Matrix Notes	100% of the rule requirement was not met.				

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty \$2,500

One single event is recommended based on the June 28, 2005 investigation.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$13

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent: 4A Investments, Ltd. dba 4A Food Mart Citgo
 Case ID No: 27199
 Reg. Ent. Reference No: RN103995916
 Media [Statute]: Petroleum Storage Tank
 Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	28-Jun-2005	31-Jan-2008	2.6	\$13	n/a	\$13
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain a copy of the CARB Executive Order at the Station. Date Required is the date of the investigation. Final Date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$100

TOTAL \$13

Screening Date	10-Aug-2005	Docket No.	2005-1852-PST-E	PCW
Respondent	4A Investments, Ltd. dba 4A Food Mart Citgo			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	27199			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN103995916			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			
Violation Number	4			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.245(2)			
Secondary Rule Cite(s)	Texas Health & Safety Code § 382.085(b)			
Violation Description	Failure to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the vapor recovery test due by October 13, 2004 had not been conducted.			
	Base Penalty	\$10,000		

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

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential	X			50%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	Failure to verify proper operation of Stage II equipment could result in the release of a significant amount of product which would exceed protective levels for human health and environmental receptors.				

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	X
	single event	<input type="text"/>

Violation Base Penalty \$5,000

One annual event is recommended for the 12 month period preceeding the June 28, 2005 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$825"/>	Violation Final Penalty Total <input type="text" value="\$4,500"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$4,500"/>	

Economic Benefit Worksheet

Respondent: 4A Investments, Ltd. dba 4A Food Mart Citgo
 Case ID No: 27199
 Reg. Ent. Reference No: RN103995916
 Media [Statute]: Petroleum Storage Tank
 Violation No: 4

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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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$750	13-Oct-2004	30-Aug-2006	2.0	\$75	\$750	\$825
Notes for AVOIDED costs: Estimated cost to verify proper operation of the Stage II equipment. Date Required is the date testing was due. Final Date is the date compliance was achieved.							

Approx. Cost of Compliance

TOTAL

Screening Date	10-Aug-2005	Docket No.	2005-1852-PST-E	PCW
Respondent	4A Investments, Ltd. dba 4A Food Mart Citgo			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	27199			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN103995916			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			
Violation Number	5			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.244(3)			
Secondary Rule Cite(s)	Texas Health & Safety Code § 382.085(b)			
Violation Description	Failure to conduct monthly inspections of the Stage II vapor recovery system.			
		Base Penalty	\$10,000	

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

OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent 50%
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would exceed levels that are protective of human health or environmental receptors.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty \$5,000

One quarterly event is recommended from the June 28, 2005 investigation to the August 10, 2005 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$21"/>	Violation Final Penalty Total <input type="text" value="\$4,500"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$4,500"/>	

Economic Benefit Worksheet

Respondent 4A Investments, Ltd. dba 4A Food Mart Citgo
 Case ID No. 27199
 Reg. Ent. Reference No. RN103995916
 Media [Statute] Petroleum Storage Tank
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$250	28-Jun-2005	30-Aug-2006	1.2	\$1	\$20	\$21
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to conduct monthly inspections of Stage II vapor recovery system. Date Required is the investigation date. Final Date is the date compliance was achieved.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$21

Screening Date	10-Aug-2005	Docket No.	2005-1852-PST-E	PCW
Respondent	4A Investments, Ltd. dba 4A Food Mart Citgo			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	27199			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN103995916			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			
Violation Number	6			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.242(3)(J) and (9)			
Secondary Rule Cite(s)	Texas Health & Safety Code § 382.085(b)			
Violation Description	Failure to maintain the Stage II vapor recovery system in proper operating condition and free of defects. Specifically, at the time of the investigation, the Stage I dry break was damaged. Also, the respondent failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.			
Base Penalty	\$10,000			

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		X		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

Matrix Notes

Failing to maintain the Stage II Vapor Recovery System could expose human health or the environment to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

mark only one use a small x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on the June 28, 2005 investigation date, and the August, 2005 screening date.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$49

Violation Final Penalty Total \$2,250

This violation Final Assessed Penalty (adjusted for limits) \$2,250

Economic Benefit Worksheet

Respondent 4A Investments, Ltd. dba 4A Food Mart Citgo
Case ID No. 27199
Reg. Ent. Reference No. RN103995916
Media [Statute] Petroleum Storage Tank
Violation No. 6

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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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$600	28-Jun-2005	30-Aug-2006	1.2	\$2	\$47	\$49
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated expense to repair the Stage I dry break and to maintain a copy of the Stage II operating instructions for the dispensers. Date Required is the investigation date. Final Date is the date compliance was achieved.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$600

TOTAL \$49

Compliance History

Customer/Respondent/Owner-Operator: CN602722258 4A Investments, LTD. Classification: HIGH Rating: 0.00
Regulated Entity: RN103995916 4A FOOD MART CITGO Classification: HIGH Site Rating: 0.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 76624
Location: 2881 FM 157 N, MANSFIELD, TX, 76063 Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: July 18, 2007
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: November 08, 2000 to November 08, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Suzanne Walrath Phone: 512/239-2134

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership of the site during the compliance period?
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 11/26/2003 (253293)
2 07/29/2005 (398790)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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
AGAINST
4A INVESTMENTS, LTD. DBA
4A FOOD MART CITGO;
RN103995916

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1852-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding 4A Investments, Ltd. dba 4A Food Mart Citgo ("4A") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and 4A, appear before the Commission and together stipulate that:

1. 4A owns and operates a convenience store with retail sales of gasoline located at 2881 Farm-to-Market 157 North, Mansfield, Tarrant County, Texas (the "Station").
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 TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and 4A agree that the Commission has jurisdiction to enter this Agreed Order, and that 4A is subject to the Commission's jurisdiction.
4. 4A received notice of the violations alleged in Section II ("Allegations") on or about July 27, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by 4A of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of twenty thousand two hundred fifty dollars (\$20,250.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). 4A has paid one thousand dollars (\$1,000.00) of the administrative penalty. The remaining amount of nineteen thousand two hundred fifty dollars (\$19,250.00) of the administrative penalty shall be payable in 35 monthly payments of five hundred fifty dollars (\$550.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If 4A 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, the failure of 4A to meet the payment schedule of this Agreed Order constitutes the failure by 4A to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and 4A have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that 4A has implemented the following corrective measures at the Station in response to this enforcement action:
 - a. The line leak detectors were tested on September 3, 2005, as evidenced by test results submitted on August 30, 2006;
 - b. The product lines were tested on September 3, 2005, as evidenced by test results submitted on August 30, 2006;
 - c. UST ID numbers were affixed to the fill tubes, as demonstrated by photos submitted on August 30, 2006;
 - d. The Stage II system tests were conducted in September and December, 2005, as evidenced by test results submitted August 30, 2006;
 - e. Began monthly Stage II inspections in January 2006, as demonstrated by a Stage II inspection log submitted on August 30, 2006;
 - f. Repaired the damaged Stage I dry break, as evidenced by a copy of a completed work order submitted on August 30, 2006; and

- g. Marked the top of each fill tube or nonremovable point in the immediate area of the fill tube of each UST, as demonstrated by photos submitted on August 30, 2006.
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 4A 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 documented during an investigation conducted on June 28, 2005, 4A is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), by failing to provide a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other underground ancillary equipment;
2. 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(c)(1), by failing to monitor the piping associated with the UST system in a manner designed to detect releases from any portion of the piping system;
3. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(c)(1), by failing to have the line leak detectors tested at least once per year for performance and operational reliability;
4. 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a), by failing to reconcile inventory control records on a monthly basis, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons;
5. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), by failing to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either

the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form;

6. 30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain a copy of the applicable California Air Resource Board Executive Order ("CARB") for the Stage II vapor recovery system and any related components installed at the Station. Specifically, at the time of the investigation, the CARB Executive Order was not available for review;
7. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the vapor recovery test due by October 13, 2004 had not been conducted;
8. 30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to conduct monthly inspections of the Stage II vapor recovery system; and
9. 30 TEX. ADMIN. CODE § 115.242(3)(J) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain the Stage II vapor recovery system in proper operating condition and free of defects. Specifically, at the time of the investigation, the Stage I dry break was damaged.
10. 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

III. DENIALS

4A generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that 4A pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and 4A'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 action 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: 4A Investments, Ltd. dba 4A Food Mart Citgo, Docket No. 2005-1852-PST-E" to:

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

2. 4A shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, 4A shall:
 - i. install and implement a release detection method, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - ii. begin maintaining an appropriate copy of the CARB Executive Order at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246;
 - iii. begin reconciling inventory control records on a monthly basis sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in accordance with 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii); and
 - iv. post operating instructions conspicuously on the front of each gasoline dispensing pump, in accordance with 30 TEX. ADMIN. CODE § 115.242(9).
 - b. Within 45 days after the effective date of this Agreed Order, 4A shall 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.i. through 2.a.iv.

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 fine 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:

Mr. Sam Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon 4A. 4A is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If 4A 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, 4A's failure to comply is not a violation of this Agreed Order. 4A shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. 4A shall notify the Executive Director within seven days after 4A 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 4A shall be made in writing to the Executive Director. Extensions are not effective until 4A 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 4A 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be

transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 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 the Order to 4A, or three days after the date on which the Commission mails notice of the Order to 4A, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/20/07

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 the entity, if any, 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 4A's failure to comply with the Ordering Provisions, if any, in this order and/or 4A's failure to timely pay the penalty amount, may result in:

- A negative impact on 4A's compliance history;
- Greater scrutiny of any permit applications submitted by 4A;
- 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 against 4A;
- Automatic referral to the Attorney General's Office of any future enforcement actions against 4A; and
- TCEQ seeking other relief as authorized by law.

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



Signature

4.18.07

Date

SUMAN NEPAL

Name (Printed or typed)

Manager

Title

Authorized representative of
4A Investments, Ltd. dba 4A Food Mart Citgo