

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0025-MLM-E **TCEQ ID:** RN102424884 **CASE NO.:** 32110

RESPONDENT NAME: Petro Stopping Centers, L.P. dba Petro Stopping Center 4

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 checked="" 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 checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input checked="" type="checkbox"/> USED OIL
<p>SITE WHERE VIOLATION(S) OCCURRED: Petro Stopping Center 4, 5405 Walden Road, Beaumont, Jefferson County</p> <p>TYPE OF OPERATION: Truck stop with retail sales of gasoline and a truck service center</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</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 30, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Colin Barth, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-0086; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Clark Rudy, Director of Engineering, Petro Stopping Centers, L.P. dba Petro Stopping Center 4, 6080 Surety Drive, El Paso, Texas 79905 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: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: May 30 and November 10, 2006</p> <p>Date of NOV/NOE Relating to this Case: November 27, 2006 (NOE)</p> <p>Background Facts: During a follow-up investigation conducted to determine compliance with violations previously discovered at the station, current violations were documented. Eight violations were documented.</p> <p>WASTE</p> <p>1) Failed to have required underground storage tank ("UST") records readily accessible and available for the inspection upon request by agency personnel. Specifically, no records were available for: inventory control, overfill prevention, cathodic protection test (3 year and 60 day), or release detection [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failed to securely anchor each UL-listed emergency shutoff valve at the base of each aboveground dispensing unit. Specifically, the shear valves on 12 diesel dispensers were not anchored during an investigation on May 30, 2006 but were securely anchored during the November 10, 2006 investigation date [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>3) Failed to maintain a copy of the "California Air Resource Board" (CARB) Executive Order for Stage II vapor Recovery System and maintain a record of the results of Stage II testing conducted at the motor vehicle fuel dispensing Station. Specifically, this Station had a copy of CARB Order G-70-154, however the applicable CARB Order for the Stage II vapor recovery system is G-70-70-AC and</p>	<p>Total Assessed: \$41,242</p> <p>Total Deferred: \$8,248 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$32,994</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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>1) The Executive Director recognizes that the Respondent anchored the shear valves under the diesel dispenser and repaired the gasoline leak coming from the super unleaded gasoline meter under dispenser No.1 on November 10, 2006.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin maintaining petroleum storage tank records at the Station;</p> <p>ii. Begin maintaining the applicable CARB Order and verify stage II test results are maintained at the Station and available for review at all times;</p> <p>iii. Provide photographic and analytical documentation verifying the area contaminated with anti-freeze and with used oil have been remediated;</p> <p>iv. Implement measures to ensure that all future suspected releases at the Station will be reported to the TCEQ within 24 hours;</p> <p>v. Conduct a release investigation and confirmation at the Station to address the suspected release that occurred in May of 2006, in accordance with 30 TEX. ADMIN. CODE § 334.74; and</p> <p>b. 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 No. 2.a.</p>

results of a Stage II test conducted by Shirley Environmental LLC on May 19, 2006, were not available [30 TEX. ADMIN. CODE § 115.246(1) and (5) and TEX. HEALTH & SAFETY CODE 382.085(b)].

4) Failed to ensure no avoidable gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the liquid transfer or vapor balance system. Specifically, a steady drip of gasoline was observed coming from the super unleaded gasoline meter under dispenser No. 1 during an investigation on May 30, 2006 but was repaired during the November 10, 2006 investigation [30 TEX. ADMIN. CODE §§ 115.222(3), 115.242(4), and TEX. HEALTH & SAFETY CODE 382.085(b)].

5) Failed to prevent the disposal of municipal hazardous waste in such a manner as to cause the endangerment of public health and welfare. Specifically, anti-freeze was discharged to the ground in an area approximately 15 feet by 2 feet was observed behind the truck service center [30 TEX. ADMIN. CODE § 335.4(3)].

6) Failed to report a suspected release to the TCEQ within 24 hours of the discovery. Specifically, inventory control records for May 2006 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].

7) Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for May 2006 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].

8) Failed to submit written information, such as a letter, describing details of the spill and supporting the adequacy of the response action to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge. Specifically, no documentation was submitted following the discharge of used oil near the access road and lube center of the Station [30 TEX. ADMIN. CODE §§ 324.15 and 327.5(c)].



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	12-Dec-2006	Screening	29-Dec-2006	EPA Due	
	PCW	3-Jan-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Petro Stopping Centers, L.P. dba Petro Stopping Center 4		
Reg. Ent. Ref. No.	RN102424884		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	32110	No. of Violations	7
Docket No.	2007-0025-MLM-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Colin Barth
Multi-Media	Municipal Solid Waste and Used Oil	EC's Team	8
Admin. Penalty \$ Limit Minimum	\$0		\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$35,000
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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.

Compliance History	17% Enhancement	Subtotals 2, 3, & 7	\$5,950
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Notes The respondent received one NOV with same or similar violations and one NOV for dissimilar violations at this site within the past five years and is classified as a poor performer.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The respondent does not meet the good faith criteria.

Total EB Amounts	\$309	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$4,350	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTAL	One quarterly event is recommended from the November	Final Subtotal	\$40,950
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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	\$40,950
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$40,950
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DEFERRAL	20% Reduction	Adjustment	-\$8,190
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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	\$32,760
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Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Colin Barth

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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Estimated cost to conduct a release investigation and confirmation steps for a	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) 7%

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

The respondent received one NOV with same or similar violations and one NOV for dissimilar violations at this site within the past five years and is classified as a poor performer.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 17%

Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Colin Barth

Violation Number 1

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

Violation Description Failed to have required UST records readily accessible and available for the inspection upon request by agency personnel, as documented during an investigation conducted on November 10, 2006. Specifically, no records were available for: inventory control, overfill prevention, cathodic protection test (3 year and 60 day), or release detection.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 49

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,925

This violation Final Assessed Penalty (adjusted for limits) \$2,925

Economic Benefit Worksheet

Respondent: Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No.: 32110
Reg. Ent. Reference No.: RN102424884
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
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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	\$500	10-Nov-2006	17-Sep-2007		\$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 estimated amount required to have the UST records readily accessible and available at the facility from the investigation date to 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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500
TOTAL \$0

Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Colin Barth

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.45(c)(3)(A)

Violation Description

Failed to securely anchor each UL-listed emergency shutoff valve at the base of each aboveground dispensing unit, as documented during investigations conducted on May 30, 2006 and November 10, 2006. Specifically, the shear valves on 12 diesel dispensers were not anchored during an investigation on May 30, 2006 but were securely anchored during the November 10, 2006 investigation date.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 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 this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

165 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two quarterly events are recommended from the May 30, 2006 investigation date, to the November 10, 2006 date of compliance.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$5,850

This violation Final Assessed Penalty (adjusted for limits) \$5,850

Economic Benefit Worksheet

Respondent: Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No: 32110
Reg. Ent. Reference No: RN102424884
Media: Petroleum Storage Tank
Violation No.: 2

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)				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)	\$100	30-May-2006	10-Nov-2006	0.4	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to properly install and maintain anchors from the initial investigation (480372) to the date the respondent achieved 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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100
TOTAL \$2

Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Colin Barth

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.246(1) and (5) and Texas Health & Safety Code 382.085(b)

Violation Description

Failed to maintain a copy of the "California Air Resource Board" (CARB) Executive Order for Stage II vapor Recovery System and records of the results of Stage II testing conducted at the motor vehicle fuel dispensing facility, as documented during an investigation conducted on November 10, 2006. Specifically, Petro Stopping Center 4 had a copy of CARB Order G-70-154, however the applicable CARB Order for the Stage II vapor recovery system is G-70-70-AC and results of a Stage II test conducted by Shirley Environmental LLC on May 19, 2006, were not available.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

49 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,925

This violation Final Assessed Penalty (adjusted for limits) \$2,925

Economic Benefit Worksheet

Respondent: Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No.: 32110
Reg. Ent. Reference No.: RN102424884
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
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No commas or \$

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	10-Nov-2006	17-Sep-2007		\$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 maintain Stage II records as required from the investigation date to 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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Colin Barth

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 115.222(3), 115.242(4) and Texas Health & Safety Code 382.085(b)

Violation Description

Failed to ensure no avoidable gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the liquid transfer or vapor balance system, as documented during investigations conducted on May 30, 2006 and November 10, 2006. Specifically, a steady gasoline drip was observed coming from the super unleaded gasoline meter under dispenser No. 1 during an investigation on May 30, 2006 but was repaired during the November 10, 2006 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

165 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two quarterly events are recommended from the May 30, 2006 investigation date, to the November 10, 2006 date of compliance.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11

Violation Final Penalty Total \$5,850

This violation Final Assessed Penalty (adjusted for limits) \$5,850

Economic Benefit Worksheet

Respondent: Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No.: 32110
Reg. Ent. Reference No.: RN102424884
Media: 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
No commas or \$							

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	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)	\$500	30-May-2006	10-Nov-2006	0.4	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to ensure no avoidable gas leaks exist anywhere in the liquid transfer or vapor balance system from the initial investigation (480372) to the date the respondent achieved 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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$11

Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Colin Barth

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 335.4(3)

Violation Description

Failed to prevent the disposal of municipal hazardous waste in such a manner as to cause the endangerment of public health and welfare, as documented during an investigation conducted on November 10, 2006. Specifically, anti-freeze was discharged to the ground in an area approximately 15 feet by 2 feet was observed behind the truck service center.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

49 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

Violation Base Penalty \$2,500

One quarterly event is recommended from the November 10, 2006 investigation date, to the December 29, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$2,925

This violation Final Assessed Penalty (adjusted for limits) \$2,925

Economic Benefit Worksheet

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No. 32110
Reg. Ent. Reference No. RN102424884
Media Petroleum Storage Tank
Violation No. 5

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)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System					\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$2,500	10-Nov-2006	17-Sep-2007	0.9	\$107	n/a	\$107
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly remove and dispose of contaminated soil at an authorized facility from the investigation date to 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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$107

Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Colin Barth

Violation Number 6

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

Violation Description Failure to report a suspected release to the TCEQ within 24 hours of the discovery. Specifically, inventory control records for May 2006 indicated a suspected release that was not reported.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%

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

Adjustment \$7,500

\$2,500

Violation Events

1 49 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$158

Violation Final Penalty Total \$2,925

This violation Final Assessed Penalty (adjusted for limits) \$2,925

Economic Benefit Worksheet

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No. 32110
Reg. Ent. Reference No. RN102424884
Media 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
<small>No commas or \$</small>							

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	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
Other (as needed)	\$150	18-May-2006	17-Jun-2006	1.0	\$8	\$150	\$158

Notes for AVOIDED costs

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

Approx. Cost of Compliance	\$150	TOTAL	\$158
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Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Colin Barth

Violation Number 7

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

Violation Description Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for May 2006 indicated a suspected release that was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				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 this violation.

Adjustment \$5,000

\$5,000

Violation Events

3

196 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Three quarterly events are recommended from the release investigation due date of June 17, 2006 to the December 29, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$17,550

This violation Final Assessed Penalty (adjusted for limits) \$17,550

Economic Benefit Worksheet

Respondent: Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No.: 32110
Reg. Ent. Reference No.: RN102424884
Media: Petroleum Storage Tank
Violation No.: 7

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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Item Description: No commas or \$

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	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)	\$500	17-Jun-2006	17-Sep-2007	1.3	\$31	n/a	\$31

Notes for DELAYED costs

Estimated costs to investigate a suspected release. The Date Required is 30 days after the discovery of the suspected release. The Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$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
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$31



Penalty Calculation Worksheet (PCW)

DATES	Assigned	12-Dec-2006	Screening	29-Dec-2006	EPA Due	
	PCW	3-Jan-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Petro Stopping Centers, L.P. dba Petro Stopping Center 4		
Reg. Ent. Ref. No.	RN102424884		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32110	No. of Violations	1
Docket No.	2007-0025-MLM-E	Order Type	1660
Media Program(s)	USED OIL	Enf. Coordinator	Colin Barth
Multi-Media	MSW and PST	EC's Team	EnforcementTeam 8
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$2,500

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$250
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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	17% Enhancement	Subtotals 2, 3, & 7	\$42
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Notes
The respondent received one NOV with same or similar violations and one NOV for dissimilar violations at this site within the past five years and is classified as a poor performer.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes
The respondent does not meet the culpability criteria.

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 x)

Notes
The respondent does not meet the good faith criteria.

	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$21
Approx. Cost of Compliance \$500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$292
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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 \$292

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$292
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DEFERRAL	20% Reduction	Adjustment	-\$58
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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	\$234
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Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] USED OIL

Enf. Coordinator Collin Barth

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 (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 7%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

The respondent received one NOV with same or similar violations and one NOV for dissimilar violations at this site within the past five years and is classified as a poor performer.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 17%

Screening Date 29-Dec-2006

Docket No. 2007-0025-MLM-E

PCW

Respondent Petro Stopping Centers, L.P. dba Petro Stopping Center 4

Policy Revision 2 (September 2002)

Case ID No. 32110

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102424884

Media [Statute] USED OIL

Enf. Coordinator Colin Barth

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 324.15 and 327.5(c)

Violation Description

Failed to submit written information, such as a letter, describing details of the spill and supporting the adequacy of the response action to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge or spill, as documented during an investigation conducted on November 10, 2006. Specifically, no documentation was submitted following the discharge of used oil near the access road and lube center of Petro Stopping Center 4.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement were not met.

Adjustment \$2,250

\$250

Violation Events

Number of Violation Events 1

49 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$250

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$292

This violation Final Assessed Penalty (adjusted for limits) \$292

Economic Benefit Worksheet

Respondent: Petro Stopping Centers, L.P. dba Petro Stopping Center 4
Case ID No.: 32110
Reg. Ent. Reference No.: RN102424884
Media: USED OIL
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)				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	\$500	10-Nov-2006	7-Sep-2007	0.8	\$21	n/a	\$21
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit documentation of the adequacy of the response action to the Beaumont Regional Office from the date of the investigation to 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

\$500

TOTAL

\$21

Compliance History

Customer/Respondent/Owner-Operator: CN600788327 Petro Stopping Centers, L.P. Classification: POOR Rating: 47.52

Regulated Entity: RN102424884 PETRO STOPPING CENTER 4 Classification: AVERAGE Site Rating: 7.50

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 20002

Location: 5405 WALDEN RD, BEAUMONT, TX, 77705 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: December 20, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 20, 2001 to December 20, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Colin Barth Phone: 512 239 0086

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
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 | 05/30/2006 | (480372) | |
| | N/A | | |
| 2 | 11/27/2006 | (519309) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|------------------|---|--------------------------|
| Date: 08/15/2006 | (483104) | |
| Self Report? NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 324, SubChapter A 324.4(1) | |
| Description: | Failure to collect and store used oil as required. | |
| Date: 05/31/2006 | (480372) | |
| Self Report? NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.10(b)[G] | |
| Description: | Failure to make all PST records available for the investigation. | |
| Self Report? NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A) | |
| Description: | Failure to install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system. | |
| Self Report? NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(1) | |
| Description: | Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system and any related components installed at the facility. | |
| Self Report? NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(5) | |

Description: Failure to maintain a record of the results of Stage II testing conducted at the motor vehicle fuel dispensing facility.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.222(3)

30 TAC Chapter 115, SubChapter C 115.242(4)

Description: Failure to ensure no avoidable gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the liquid transfer or vapor balance systems.

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
PETRO STOPPING CENTERS, L.P.
DBA PETRO STOPPING CENTER 4
RN102424884**

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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0025-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Petro Stopping Centers, L.P. dba Petro Stopping Center 4 ("Petro") under the authority of TEX. HEALTH & SAFETY CODE chs. 361, 371, and 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Petro appear before the Commission and together stipulate that:

1. Petro owns and operates a truck stop with retail sales of gasoline and a truck service center (Petro Stopping Center 4), at 5405 Walden Road in Beaumont, Jefferson County, Texas (the "Station").
2. Petro's nine underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12) and involves or involved the management of municipal hazardous waste and used oil as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 371.
3. The Commission and Petro agree that the Commission has jurisdiction to enter this Agreed Order, and that Petro is subject to the Commission's jurisdiction.
4. Petro received notice of the violations alleged in Section II ("Allegations") on or about December 2, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Petro of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Forty-One Thousand Two Hundred Forty-Two Dollars (\$41,242) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Petro has paid Thirty-Two Thousand Nine Hundred Ninety-Four Dollars (\$32,994) of the administrative penalty and Eight Thousand Two Hundred Forty-Eight Dollars (\$8,248) is deferred contingent upon Petro'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 Petro fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Petro 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 of the TCEQ and Petro 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 Petro anchored the shear valves under the diesel dispenser and repaired the gasoline leak coming from the super unleaded gasoline meter under dispenser No.1 on November 10, 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 Petro 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 Station, Petro is alleged to have:

1. Failed to have required UST records readily accessible and available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted November 10, 2006. Specifically, no records were available for: inventory control, overfill prevention, cathodic protection test (3 year and 60 day), or release detection.
2. Failed to securely anchor each UL-listed emergency shutoff valve at the base of each aboveground dispensing unit, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during investigations conducted on May 30 and November 10, 2006. Specifically, the shear valves on 12 diesel dispensers were not anchored during an investigation on May 30, 2006 but were securely anchored during the November 10, 2006 investigation date.

3. Failed to maintain a copy of the "California Air Resource Board" (CARB) Executive Order for Stage II vapor Recovery System and maintain a record of the results of Stage II testing conducted at the motor vehicle fuel dispensing Station, in violation of 30 TEX. ADMIN. CODE § 115.246(1) and (5) and TEX. HEALTH & SAFETY CODE 382.085(b), as documented during an investigation conducted on November 10, 2006. Specifically, the Station had a copy of CARB Order G-70-154, however the applicable CARB Order for the Stage II vapor recovery system is G-70-70-AC and results of a Stage II test conducted by Shirley Environmental LLC on May 19, 2006, were not available.
4. Failed to ensure no avoidable gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the liquid transfer or vapor balance system, in violation of 30 TEX. ADMIN. CODE §§ 115.222(3), 115.242(4), and TEX. HEALTH & SAFETY CODE 382.085(b), as documented during investigations conducted on May 30 and November 10, 2006. Specifically, a steady drip of gasoline was observed coming from the super unleaded gasoline meter under dispenser No. 1 during an investigation on May 30, 2006 but was repaired during the November 10, 2006 investigation.
5. Failed to prevent the disposal of municipal hazardous waste in such a manner as to cause the endangerment of public health and welfare, in violation of 30 TEX. ADMIN. CODE § 335.4(3), as documented during an investigation conducted on November 10, 2006. Specifically, anti-freeze was discharged to the ground in an area approximately 15 feet by 2 feet was observed behind the truck service center.
6. Failed to report a suspected release to the TCEQ within 24 hours of the discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation conducted on November 10, 2006. Specifically, inventory control records for May 2006 indicated a suspected release that was not reported.
7. Failed to investigate a suspected release of regulated substances within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on November 10, 2006. Specifically, inventory control records for May 2006 indicated a suspected release that was not investigated.
8. Failed to submit written information, such as a letter, describing details of the spill and supporting the adequacy of the response action to the appropriate TCEQ regional manager within 30 working days of the discovery of the reportable discharge, in violation of 30 TEX. ADMIN. CODE §§ 324.15 and 327.5(c), as documented during an investigation conducted on November 10, 2006. Specifically, no documentation was submitted following the discharge of used oil near the access road and lube center of the Station.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Petro pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Petro'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: Petro Stopping Centers, L.P. dba Petro Stopping Center 4, Docket No. 2007-0025-MLM-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. It is further ordered that Petro shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin maintaining PST records at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.10(b);
 - ii. Begin maintaining the applicable CARB Order and verify stage II test results are maintained at the Station and available for review at all times, in accordance with 30 TEX. ADMIN. CODE §§ 115.246(1) and (5);
 - iii. Provide photographic and analytical documentation verifying the area contaminated with anti-freeze and with used oil have been remediated, in accordance with 30 TEX. ADMIN. CODE §§ 327.5 and 324.4(1);
 - iv. Implement measures to ensure that all future suspected releases at the Station will be reported to the TCEQ within 24 hours, in accordance with 30 TEX. ADMIN. CODE §§ 334.72;
 - v. Conduct a release investigation and confirmation at the Station to address the suspected release that occurred in May of 2006, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
 - b. 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 No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

1911

Received of the Treasurer of the Board of Education the sum of \$100.00 for the year 1911.

Witness my hand and seal this 1st day of January 1911.

Attest my hand and seal this 1st day of January 1911.

Attest my hand and seal this 1st day of January 1911.

Attest my hand and seal this 1st day of January 1911.

Received of the Treasurer of the Board of Education the sum of \$100.00 for the year 1911.

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"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:

Waste Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. The provisions of this Agreed Order shall apply to and be binding upon Petro. Petro 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 Petro 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, Petro's failure to comply is not a violation of this Agreed Order. Petro shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Petro shall notify the Executive Director within seven days after Petro 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 Petro shall be made in writing to the Executive Director. Extensions are not effective until Petro 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 Petro 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), the effective date is the date of hand-delivery of the Order to Petro, or three days after the date on which the Commission mails notice of the Order to Petro, 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

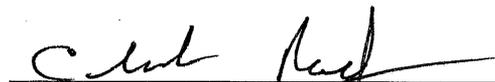
8/29/07
Date

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

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

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



Signature

5/17/07
Date

CLARK R. JOY

Name (Printed or typed)
Authorized Representative of
Petro Stopping Centers, L.P. dba Petro Stopping Center 4

DIRECTOR OF ENGINEERING

Title

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

MEMORANDUM FOR THE DIRECTOR

DATE: 11/15/54

SECRET

CONFIDENTIAL - SECURITY INFORMATION

Reference is made to the report of the Special Agent in Charge, New York, dated 11/10/54, and the report of the Special Agent in Charge, New York, dated 11/10/54, both of which are being furnished to you for information.

The above information was obtained from the New York Office and is being furnished to you for information. It is noted that the information is of a confidential nature and should be handled accordingly.

Very truly yours,
Special Agent in Charge

SECRET

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