

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2006-1844-PST-E TCEQ ID: RN101539930 CASE NO.: 31345
RESPONDENT NAME: A & L PARTNERS, LLC DBA HURST FOOD MART

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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

SITE WHERE VIOLATION(S) OCCURRED: 1401 West Hurst Boulevard, Hurst, Tarrant County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There is no record of additional pending enforcement actions regarding this facility.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 7, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Ms. Shontay Wilcher, Waste Enforcement Section, MC 128, (512) 239-2136
TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901
Respondent: Mr. Latif Abdul, President, A & L Partners, LLC, 1401 W. Hurst Blvd., Hurst, Texas 76053
Respondent's Attorney: Not represented by counsel on this enforcement matter.

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 of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: July 10, 2006</p> <p>Date of NOE Relating to this Case: September 7, 2006</p> <p>Background Facts: The EDPRP was filed on August 2, 2007. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on August 4, 2007, as evidenced by the signature on the card. The Respondent failed to respond to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to monitor its USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to accurately conduct manual or automatic monthly inventory control procedure for all USTs; failed to monitor the pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system; and failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B), and TEX. WATER CODE § 26.3475(a) and (c)(1)]. Failed to properly conduct daily and monthly inspections of the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.244(1) and (3), and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 	<p>Total Assessed: \$10,500</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$10,500</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this order</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 checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent's delivery certificate is revoked immediately.</p> <p>Within 10 days, the Respondent shall submit its delivery certificate to TCEQ.</p> <p>Corrective Actions Taken:</p> <ol style="list-style-type: none"> Had the line leak detectors tested on July 11, 2006, implemented a release detection method for the UST and the pressurized piping associated with the UST on August 10, 2006, and began conducting monthly inventory control procedures. Began conducting daily and monthly inspections of Stage II Vapor Recovery System. Ensured that a Stage II representative made aware to current employees the purposes and correct operating procedures for the Stage II Vapor Recovery System. Began maintaining at the Station all required Stage II records. Had the Stage II equipment, including the vapor recovery system, tested on July 11, 2006. Had the Stage I dry break replaced and conspicuously posted the operating instructions on the front of each gasoline dispensing pump equipped with a Stage II Vapor Recovery System on July 11, 2006. Replaced the locking ring around the drop tube on tank no. 1 on August 10, 2006.

<p>3. Failed to ensure that a Stage II representative made aware to current employees the purpose and correct operating procedures for the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4. Failed to maintain all required Stage II records at the Station and failing to make the records immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5. Failed to conduct the required annual and triennial testing to verify proper operation of the Stage II equipment [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>6. Failed to maintain all components of the Stage II Vapor Recovery System in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3)(J) and (9), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>7. Failed to prevent the release of gasoline vapors from the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE §§ 115.222(3) and 115.242(4), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		
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Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	11-Sep-2006	Screening	27-Sep-2006	EPA Due	
	PCW	31-May-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	A & L Partners, LLC dba Hurst Food Mart
Reg. Ent. Ref. No.	RN101539930
Facility/Site Region	4-Dallas/Fort Worth <
Major/Minor Source	Minor Source <

CASE INFORMATION			
Enf./Case ID No.	31345	No. of Violations	7
Docket No.	2006-1844-PST-E	Order Type	1660 <
Media Program(s)	Petroleum Storage Tank <	Enf. Coordinator	Shontay Wilcher
Multi-Media		EC's Team	Team 7 <
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability No < 0% Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply 0% Reduction **Subtotal 5**

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

Notes

Economic Benefit 0% Enhancement* **Subtotal 6**

Total EB Amounts	<input type="text" value="\$2,151"/>	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	<input type="text" value="\$5,350"/>	

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL 0% Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 27-Sep-2006

Docket No. 2006-1844-PST-E

PCW

Respondent A & L Partners, LLC dba Hurst Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31345

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101539930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

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>)	1	5%
	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%
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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Notice of Violation with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 27-Sep-2006 **PCW-A&L-revised May 2007.gpw**
 Docket No. 2006-1844-PST-E

PCW

Respondent A & L Partners, LLC dba Hurst Food Mart

Policy Revision 2 (September 2002)

Case ID No: 31345

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101539930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), 334.50(b)(2), 334.50(b)(2)(A)(i)(III), and 334.50(d)(1)(B)
Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description
 Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the Station received failing automatic tank gauge (ATG) test results for the USTs on a monthly basis. Also, the respondent failed to accurately conduct manual or automatic monthly inventory control procedure for all USTs. Specifically, the respondent did not properly conduct manual or automatic inventory control procedures in conjunction with the ATG as a method of release detection. The respondent also failed to monitor the pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. Specifically, the respondent did not conduct the annual pipe tightness test for the USTs. The respondent also failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the respondent did not conduct the annual line leak detector tests for all USTs at the Station.

Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent <input type="text" value="25%"/>
	Potential	X			

>> **Programmatic Matrix**

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

Matrix Notes
 Failure to ensure that all tanks are monitored for releases at a frequency of at least once every month could result in the release of significant amounts of pollutants that would exceed levels that are protective of human health or the environment.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events

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

Violation Base Penalty \$2,500

One quarterly event is recommended for the period from the July 10, 2006 investigation date to September 27, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,137

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent A & L Partners, LLC dba Hurst Food Mart
 Case ID No. 31345
 Reg. Ent. Reference No. RN101539930
 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	10-Jul-2006	10-May-2007	0.8	\$4	\$83	\$87
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 all tanks and its associated piping for releases. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,000	10-Jul-2005	10-Jul-2006	1.0	\$50	\$1,000	\$1,050

Notes for AVOIDED costs: Estimated cost to test the line leak detectors. The Date Required is the 12-month period preceding the investigation. The Final Date is the investigation date.

Approx. Cost of Compliance **\$2,500**

TOTAL \$1,137

Screening Date 27-Sep-2006

Docket No. 2006-1844-PST-E

PCW

Respondent A & L Partners, LLC dba Hurst Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31345

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101539930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent A & L Partners, LLC dba Hurst Food Mart
Case ID No. 31345
Reg. Ent. Reference No. RN101539930
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
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)	\$100	10-Jul-2006	10-May-2007	1.0	\$5	\$100	\$105

Notes for AVOIDED costs
 Estimated cost to conduct daily and monthly inspections of the Stage II vapor recovery system. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Approx. Cost of Compliance **\$100** **TOTAL** **\$105**

Screening Date 27-Sep-2006 **Docket No.** 2006-1844-PST-E

PCW

Respondent A & L Partners, LLC dba Hurst Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31345

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101539930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.248(1)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that a Stage II representative made aware to current employees the purposes and correct operating procedures of the Stage II vapor recovery system.

Base Penalty \$10,000

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 10%
	Potential		X		

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

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

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the period from the July 10, 2006 investigation date to September 27, 2006 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent A & L Partners, LLC dba Hurst Food Mart
 Case ID No. 31345
 Reg. Ent. Reference No. RN101539930
 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
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	\$500	10-Jul-2006	10-May-2007	0.8	\$21	n/a	\$21
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 of training. The Date Required is the investigation date. The Final Date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$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

Screening Date 27-Sep-2006 *MartPCW-A&L-revised May 2007.gpw* Docket No. 2006-1844-PST-E

PCW

Respondent A & L Partners, LLC dba Hurst Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31345

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101539930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

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

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent A & L Partners, LLC dba Hurst Food Mart
 Case ID No. 31345
 Reg. Ent. Reference No. RN101539930
 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
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-Jul-2006	10-May-2007	0.8	\$21	n/a	\$21
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 of maintaining required records. The Date Required is the investigation date. 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
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**

Screening Date 27-Sep-2006

Docket No. 2006-1844-PST-E

PCW

Respondent A & L Partners, LLC dba Hurst Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31345

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101539930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.245(2)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct the required annual and triennial testing to verify proper operation of the Stage II equipment. Specifically, the respondent did not conduct annual testing for operability of the Stage II equipment and the triennial testing of the Stage II vapor recovery system at the Station.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential	X			

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
						Percent
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 the environment as a result of the violation.					

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	X
	single event	

Violation Base Penalty \$2,500

One annual event is recommended for the 12-month period preceding the July 10, 2006 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$863

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent A & L Partners, LLC dba Hurst Food Mart
 Case ID No. 31345
 Reg. Ent. Reference No. RN101539930
 Media [Statute] 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
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

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	10-Jul-2003	10-Jul-2006	3.0	\$113	\$750	\$863

Notes for AVOIDED costs
 Estimated cost to conduct the required annual and triennial tests. The Date Required is the three year period preceding the investigation. The Final Date is the investigation date.

Approx. Cost of Compliance **\$750** TOTAL **\$863**

Screening Date 27-Sep-2006 Mart\PCW-A&L-revised May 2007.gpw
 Docket No. 2006-1844-PST-E

PCW

Respondent A & L Partners, LLC dba Hurst Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31345

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101539930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 6

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.242(3)(J) and (9)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the respondent did not repair or replace the broken Stage I dry break to insure the proper operations of the Stage I equipment. The respondent also 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

Harm

Release	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

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

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the period from the July 10, 2006 investigation date to August 10, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent A & L Partners, LLC dba Hurst Food Mart
 Case ID No. 31345
 Reg. Ent. Reference No. RN101539930
 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
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)	\$500	10-Jul-2006	10-Aug-2006	0.1	\$2	n/a	\$2

Notes for DELAYED costs: Estimated cost to repair the Stage II dry break. Date required is the date of the investigation. Final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$2

Screening Date 27-Sep-2006

Mart\PCW-A&L-revised May 2007.gpw

Docket No. 2006-1844-PST-E

PCW

Respondent A & L Partners, LLC dba Hurst Food Mart

Policy Revision 2 (September 2002)

Case ID No. 31345

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101539930

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 7

Primary Rule Cite(s) 30 Tex. Admin. Code §§ 115.222(3) and 115.242(4)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description
Failed to prevent the release of gasoline vapors from the Stage II vapor recovery system. Specifically, the investigator observed and smelled gasoline vapors from the locking ring around the drop tube on tank no. 1 at the Station.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm				
Release		Major	Moderate	Minor		
OR	Actual			X	Percent	10%
	Potential					

>> Programmatic Matrix

		Major	Moderate	Minor		
	Falsification				Percent	

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 the violation.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the period from the July 10, 2006 investigation date to August 10, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent A & L Partners, LLC dba Hurst Food Mart
 Case ID No. 31345
 Reg. Ent. Reference No. RN101539930
 Media [Statute] 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
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)	\$500	10-Jul-2006	10-Aug-2006	0.1	\$2	n/a	\$2

Notes for DELAYED costs: Estimated cost to repair the drop tubes of the Stage II vapory recovery system. The Date Required is the date of the investigation. The Final Date is the date of compliance.

Item	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

Compliance History

Customer/Respondent/Owner-Operator:	CN603082686	A & L PARTNERS, LLC	Classification: AVERAGE	Rating: 0.60
Regulated Entity:	RN101539930	HURST FOOD MART	Classification: AVERAGE	Site Rating: 0.60
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	44476
Location:	1401 W HURST BLVD, HURST, TX, 76053		Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	November 10, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 10, 2001 to November 10, 2006			

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

Name: Shontay Wilcher Phone: (512) 239-2136

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 08/26/2002 (9187)
 - 2 12/03/2002 (15080)
 - 3 08/15/2006 (497626)
 - 4 09/07/2006 (510710)
 - 5 09/07/2006 (486161)
 - 6 10/10/2003 (251564)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 08/26/2002 (9187)
 - Self Report? NO
 - Citation: 30 TAC Chapter 115, SubChapter C 115.245(3)[G]
 - Description: Failure to successfully verify proper operation of the Stage II equipment at least every five years.
 - Classification: Moderate
- 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
A & L PARTNERS, LLC DBA
HURST FOOD MART;
RN101539930**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2006-1844-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and revocation of the respondent's fuel delivery certificate.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. A & L owns and operates a convenience store with retail sales of gasoline located at 1401 West Hurst Boulevard, Hurst, Tarrant County, Texas (the "Station").
2. A & L's three USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. A & L's USTs contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on July 10, 2006, a TCEQ Dallas-Fort Worth Regional Office investigator documented that A & L:
 - a. Failed to monitor its USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to accurately conduct manual or automatic monthly inventory control procedure for all USTs; failed to monitor the pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system; and failed to test the line leak detectors at least once per year for performance and operational reliability.

Specifically, the Station received failing automatic tank gauge ("ATG") test results for the USTs on a monthly basis; did not properly conduct manual or automatic inventory control procedures in conjunction with the ATG as a method of release detection; did not conduct the annual pipe tightness test for the USTs; and did not conduct the annual line leak detector tests for all USTs at the Station.

- b. Failed to properly conduct daily and monthly inspections of the Stage II vapor recovery system. Specifically, A & L did not conduct daily inspections of the Stage II vapor recovery system, and did not conduct monthly inspections of the pressure/vacuum relief valves, vapor check valves, or Stage I dry breaks.
 - c. Failed to ensure that a Stage II representative made aware to current employees the purpose and correct operating procedures for the Stage II Vapor Recovery System;
 - d. Failed to maintain all required Stage II records at the Station and failed to make the records immediately available for review upon request by agency personnel. Specifically, A & L did not maintain at the Station a copy of the California Air Board ("CARB") Executive Order(s) or the maintenance records for the Stage II vapor recovery system.
 - e. Failed to conduct the required annual and triennial testing to verify proper operation of the Stage II equipment. Specifically, A & L did not conduct annual testing for operability of the Stage II equipment and the triennial testing of the Stage II vapor recovery system at the Station.
 - f. Failed to maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, A & L did not repair or replace the broken Stage I dry break to insure the proper operations of the Stage I equipment. A & L also failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II Vapor Recovery System.
 - g. Failed to prevent the release of gasoline vapors from the Stage II vapor recovery system. Specifically, the investigator observed and smelled gasoline vapors from the locking ring around the drop tube on tank no. 1 at the Station.
4. A & L received notice of the violations on or about September 12, 2006.
 5. The Executive Director recognizes that A & L has implemented the following corrective measures at the facility:

- a. Had the line leak detectors tested on July 11, 2006, implemented a release detection method for the UST and the pressurized piping associated with the UST on August 10, 2006, and began conducting monthly inventory control procedures.
 - b. Began conducting daily and monthly inspections of Stage II Vapor Recovery System.
 - c. Ensured that a Stage II representative made aware to current employees the purposes and correct operating procedures for the Stage II Vapor Recovery System.
 - d. Began maintaining at the Station all required Stage II records.
 - e. Had the Stage II equipment, including the vapor recovery system, tested on July 11, 2006.
 - f. Had the Stage I dry break replaced and conspicuously posted the operating instructions on the front of each gasoline dispensing pump equipped with a Stage II Vapor Recovery System on July 11, 2006.
 - g. Replaced the locking ring around the drop tube on tank no. 1 on August 10, 2006.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of A & L Partners, LLC dba Hurst Food Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on April 26, 2007.
 7. By letter dated April 26, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served A & L with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that A & L received notice of the EDPRP.
 8. More than 20 days have elapsed since A & L received notice of the EDPRP, provided by the Executive Director. A & L failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, A & L is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3.a., A & L failed to monitor its USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to accurately conduct manual or automatic monthly inventory control procedure for all USTs; failed to monitor the pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system; and failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B), and TEX. WATER CODE § 26.3475(a) and (c)(1).
3. As evidenced by Finding of Fact No. 3.b., A & L failed to properly conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and (3), and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 3.c., A & L failed to ensure that a Stage II representative made aware to current employees the purpose and correct operating procedures for the Stage II Vapor Recovery System, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b),
5. As evidenced by Finding of Fact No. 3.d., A & L failed to maintain all required Stage II records at the Station and failing to make the records immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b).
6. As evidenced by Finding of Fact No. 3.e., A & L failed to conduct the required annual and triennial testing to verify proper operation of the Stage II equipment, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
7. As evidenced by Finding of Fact No. 3.f., A & L failed to maintain all components of the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3)(J) and (9), and TEX. HEALTH & SAFETY CODE § 382.085(b).
8. As evidenced by Finding of Fact No. 3.g., A & L failed to prevent the release of gasoline vapors from the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE §§ 115.222(3) and 115.242(4), and TEX. HEALTH & SAFETY CODE § 382.085(b).
9. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served A & L with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).

10. As evidenced by Finding of Fact No. 8, A & L failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against A & L and assess the penalty recommended by the Executive Director.
11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against A & L for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
12. An administrative penalty in the amount of ten thousand five hundred dollars (\$10,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
13. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
14. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke A & L's UST delivery certificate if the Commission finds that good cause exists.
15. Good cause for revocation of A & L's UST delivery certificate exists as justified by Findings of Fact Nos. 6 through 8, and Conclusions of Law Nos. 8 and 9.

ORDERING PROVISIONS

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

1. A & L is assessed an administrative penalty in the amount of ten thousand five hundred dollars (\$10,500.00) for violations of the Texas Water Code, the Texas Health & Safety Code, and the rules of the TCEQ. The payment of this administrative penalty and A & L's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: A & L Partners, LLC dba Hurst Food Mart; Docket No. 2006-1844-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. A & L's UST delivery certificate is revoked immediately upon the effective date of this Order. A & L may submit an application for a new delivery certificate only after A & L has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, A & L shall send its UST delivery certificate to:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon A & L. A & L is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
6. If A & L fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, A & L's failure to comply is not a violation of this Order. A & L shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. A & L shall notify the Executive Director within seven days after A & L becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by A & L shall be made in writing to the Executive Director. Extensions are not effective until A & L receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to A & L if the Executive Director determines that A & L has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

A & L Partners, LLC dba Hurst Food Mart
Docket No. 2006-1844-PST-E
Page 8

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LENA ROBERTS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Lena Roberts. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of A & L Partners, LLC dba Hurst Food Mart” (the “EDPRP”) was filed with the Office of the Chief Clerk on April 26, 2007.

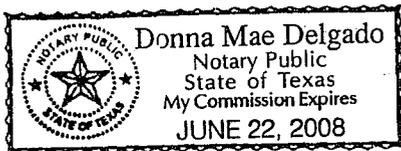
The EDPRP was mailed to A & L at its last known address on April 26, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that A & L received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since A & L received notice of the EDPRP. A & L failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”

Lena Roberts, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Lena Roberts, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 13th day of November, A.D., 2007.



Notary Signature