EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0075-PST-E **TCEQ ID:** RN101786259 **CASE NO.:** 35173

RESPONDENT NAME: KOODALOOR CORPORATION dba Sunny Food Store 3

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Sunny Food Store 3, 3703 Texas Parkway, Missouri City, Fort Bend County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: X **Yes** ___ **No**

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

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 May 12, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Simon Stephen, President and Registered Agent, KOODALOOR CORPORATION dba Sunny Food Store 3, 6650 Bellfort A Street, Houston, Texas 77087-6407

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint X Routine ___ Enforcement Follow-up ___ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** October 19, 2007 **Date of NOE Relating to this Case:** November 7, 2007 (NOE) **Background Facts:** This was a routine investigation. **WASTE** 1) Failure to monitor underground storage tanks (USTs) for releases at a frequency of a least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)]. 2) Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)]. 3) Failure to ensure that all USTs are properly identified as listed on the Station's UST registration and self-certification form by a legible tag, label, or marking that is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)]. 4) Failure to verify proper operation of Stage II equipment at least once every twelve months or upon major system replacement or modification. Specifically, the Stage II annual system compliance tests failed and the system was not retested [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $9,650 **Total Deferred:** $1,930 X Expedited Settlement ___Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $230 (remaining $7,490 due in 35 monthly payments of $214 each) **Site Compliance History Classification** X **High** ___ **Average** ___ **Poor** **Person Compliance History Classification** X **High** ___ **Average** ___ **Poor** **Major Source:** ___ Yes X No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a) Within 30 days after the effective date of this Agreed Order: i. Install and implement a release detection method for USTs at the Station, and begin conducting reconciliation of detailed inventory control records; ii. Appropriately mark the top of each fill tube or nonremovable point in the immediate area of the fill tube of each UST; iii. Conduct annual testing of the Stage II equipment; and iv. Conduct triennial testing of the cathodic protection system. b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.i. through a.iv.

5) Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the Respondent did not conduct the triennial test [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].		

Additional ID No(s).: PST 35387

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision November 6, 2007*

TCEQ

DATES					
Assigned	17-Dec-2007				
PCW	27-Dec-2007	Screening	19-Dec-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	KOODALOOR CORPORATION dba Sunny Food Store 3		
Reg. Ent. Ref. No.	RN101786259		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35173	No. of Violations	4
Docket No.	2008-0075-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Shontay Wilcher
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $8,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History -10% Enhancement — *Subtotals 2, 3, & 7* -$850

Notes: Reduction for High Performer Classification.

Culpability No — 0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

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

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

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$2,369
Approx. Cost of Compliance	$3,750

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $7,650

OTHER FACTORS AS JUSTICE MAY REQUIRE 31% — *Adjustment* $2,000

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture avoided costs associated with the violations.

Final Penalty Amount $9,650

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $9,650

DEFERRAL 20% Reduction — *Adjustment* -$1,930

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $7,720

Screening Date 19-Dec-2007 **Docket No.** 2008-0075-PST-E **PCW**

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3

Policy Revision 2 (September 2002)

Case ID No. 35173

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101786259

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
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%
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%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction for High Performer Classification.

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

Screening Date 19-Dec-2007 **Docket No.** 2008-0075-PST-E **PCW**

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3

Policy Revision 2 (September 2002)

Case ID No. 35173

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101786259

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (d)(1)(B)(ii), and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor USTs for releases at a frequency of a least once every month (not to exceed 35 days between each monitoring). Also, the Respondent failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

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 pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1

62 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 for documentation of the violation during the October 19, 2007 investigation date to the December 19, 2007 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $63

Statutory Limit Test

Violation Final Penalty Total $2,838

This violation Final Assessed Penalty (adjusted for limits) $2,838

Economic Benefit Worksheet

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3
Case ID No. 35173
Reg. Ent. Reference No. RN101786259
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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)	$1,500	19-Oct-2007	19-Aug-2008	0.8	$63	n/a	$63
Notes for DELAYED costs	Estimated cost to monitor USTs for releases and conduct monthly reconciliation of inventory control records. The date required is the date of the investigation and the final date is the expected compliance date.						
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 $1,500

TOTAL $63

PCW

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

Screening Date 19-Dec-2007 **Docket No.** 2008-0075-PST-E

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3

Case ID No. 35173

Reg. Ent. Reference No. RN101786259

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description Failed to ensure that all USTs are properly identified as listed on the Station's UST registration and self-certification form by a legible tag, label, or marking that is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube.

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 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

62 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended for documentation of the violation during the October 19, 2007 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $15

Statutory Limit Test

Violation Final Penalty Total $1,135

This violation Final Assessed Penalty (adjusted for limits) $1,135

Economic Benefit Worksheet

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3
Case ID No. 35173
Reg. Ent. Reference No. RN101786259
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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)	$250	19-Oct-2007	19-Aug-2008	0.8	$1	$14	$15
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 permanently label USTs. The date required is the date of the investigation and the final date is the expected compliance date.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $250

TOTAL $15

Screening Date 19-Dec-2007 **Docket No.** 2008-0075-PST-E **PCW**

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3 *Policy Revision 2 (September 2002)*

Case ID No. 35173 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN101786259

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to verify proper operation of Stage II equipment at least once every twelve months or upon major system replacement or modification. Specifically, the Stage II annual system compliance tests failed and the system was not retested.

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 pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an 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 October 19, 2007 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,096

Statutory Limit Test

Violation Final Penalty Total $2,838

This violation Final Assessed Penalty (adjusted for limits) $2,838

Economic Benefit Worksheet

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3
Case ID No. 35173
Reg. Ent. Reference No. RN101786259
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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)	$1,000	19-Oct-2006	19-Oct-2007	1.9	$96	$1,000	$1,096
Notes for AVOIDED costs	Estimated cost to successfully complete the required annual Stage II tests. The date required is one year prior to the investigation. The final date is the date of the investigation.						

Approx. Cost of Compliance $1,000 TOTAL $1,096

Screening Date 19-Dec-2007 **Docket No.** 2008-0075-PST-E **PCW**

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3

Policy Revision 2 (September 2002)

Case ID No. 35173

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101786259

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 4

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

Violation Description Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the Respondent did not conduct the triennial test.

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 pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1

1095 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 for the three-year period preceding October 19, 2007 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,196

Statutory Limit Test

Violation Final Penalty Total $2,838

This violation Final Assessed Penalty (adjusted for limits) $2,838

Economic Benefit Worksheet

Respondent KOODALOOR CORPORATION dba Sunny Food Store 3
Case ID No. 35173
Reg. Ent. Reference No. RN101786259
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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)	$1,000	19-Oct-2004	19-Oct-2007	3.9	$196	$1,000	$1,196
Notes for AVOIDED costs	Avoided cost for completing the triennial test. The date required is three years preceding the investigation. The final date is the date of the investigation.						

Approx. Cost of Compliance $1,000

TOTAL $1,196

Compliance History

Customer/Respondent/Owner-Operator:	CN602943870	KOODALOOR CORPORATION	Classification: HIGH	Rating: 0.00
Regulated Entity:	RN101786259	SUNNY FOOD STORE 3	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	35387	
Location:	3703 TEXAS PKWY, MISSOURI CITY, TX, 77489	Rating Date: September 01 07	Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	January 04, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 04, 2003 to January 04, 2008			

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 01/17/2003 (17668)
2 11/07/2007 (598758)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
KOODALOOR CORPORATION DBA	§	
SUNNY FOOD STORE 3	§	
RN101786259	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0075-PST-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 KOODALOOR CORPORATION dba Sunny Food Store 3 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 3703 Texas Parkway in Missouri City, Fort Bend County, Texas (the "Station").

2. The Respondent's three 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).

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 12, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nine Thousand Six Hundred Fifty Dollars ($9,650) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Thirty Dollars ($230) of the administrative penalty and One Thousand Nine Hundred Thirty Dollars ($1,930) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

   The remaining amount of Seven Thousand Four Hundred Ninety Dollars ($7,490) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Fourteen Dollars ($214) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

10. 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.

11. 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, the Respondent is alleged to have:

1. Failed to monitor USTs for releases at a frequency of a least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on October 19, 2007.

2. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on October 19, 2007.

3. Failed to ensure that all USTs are properly identified as listed on the Station's UST registration and self-certification form by a legible tag, label, or marking that is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on October 19, 2007.

4. Failed to verify proper operation of Stage II equipment at least once every twelve months or upon major system replacement or modification, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on October 19, 2007. Specifically, the Stage II annual system compliance tests failed and the system was not retested.

5. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on October 19, 2007. Specifically, the Respondent did not conduct the triennial test.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: KOODALOOR CORPORATION dba Sunny Food Store 3, Docket No. 2008-0075-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. It is further ordered that the Respondent shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order:

i. Install and implement a release detection method for USTs at the Station, and begin conducting reconciliation of detailed inventory control records, in accordance to 30 TEX. ADMIN. CODE § 334.50;

ii. Appropriately mark the top of each fill tube or nonremovable point in the immediate area of the fill tube of each UST, in accordance with 30 TEX. ADMIN. CODE § 334.8;

iii. Conduct annual testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and

iv. Conduct triennial testing of the cathodic protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49.

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 Nos. 2.a.i. through 2.a.iv. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John Sadler
For the Executive Director

7/2/2008
Date

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

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

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

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

Simon Stephen
Signature

06/24/08
Date

SIMON STEPHEN
Name (Printed or typed)
Authorized Representative of
KOODALOOR CORPORATION dba Sunny Food Store 3

Owner
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.