

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2005-1174-PST-E TCEQ ID: RN102471190 CASE NO.: 26046
RESPONDENT NAME: SAO TRADERS INC. DBA STOP N DRIVE 2

| | | |
|---|---|--|
| 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 checked="" type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: 7431 Highway 59 South, Shepherd, San Jacinto County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 26, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Audra Ruble, Air Enforcement Section, MC R-14, (361) 825-3126 TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838 Respondent: Mr. Mohammad Salman, President, SAO Traders Inc., 21521 Towerguard Drive, Kingwood, Texas 77339-2148 Respondent's Attorney: Not represented by counsel.</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|--|---|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 30, 2005</p> <p>Date of NOE Relating to this Case: May 26, 2005</p> <p>Background Facts: The case was referred to the Litigation Division on December 30, 2005.</p> <p>An EDPRP was filed on January 27, 2006. The Respondent received notice of the EDPRP on February 10, 2006. An initial settlement agreement was reached with the Respondent, but the respondent became unresponsive before an Agreed Order could be finalized. An EDFARP was filed on February 29, 2008. The Respondent received notice of the EDFARP on March 3, 2008. The Respondent has not filed an answer or requested a hearing in response to the EDPRP or EDFARP.</p> <p>PST:</p> <p>1. Failed to ensure that a valid, current TCEQ delivery certificate was posted at the Facility in a location where the document is clearly visible at all times [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii)].</p> <p>2. Failed to install and maintain a secure anchor base of each UL-listed emergency shutoff valve (shear or impact) in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> | <p>Total Assessed: \$9,500</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement: <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$9,500</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 checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <ol style="list-style-type: none"> 1. Provided documentation to the TCEQ that a valid, current TCEQ delivery certificate had been posted at the Facility, in a location where the document is clearly visible at all times. 2. A secure anchor at the base of each UL-listed emergency shutoff valve was installed. 3. The impressed current cathodic protection system was successfully tested. 4. A piping tightness test was successfully conducted. 5. Provided documentation that the line leak detectors were successfully tested for performance and operational reliability. <p>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately upon the effective date of this Order. The Respondent may submit an application for a new delivery certificate only after it has complied with all of the requirements of this Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Immediately take the following steps to shut down operations of the non-compliant UST systems at the Facility: <ol style="list-style-type: none"> a. Cease dispensing fuel from the USTs; b. Cease receiving deliveries of regulated substances to the USTs; c. Padlock the dispensers; d. Empty the UST Systems of all regulated Substances; and e. Temporarily remove the UST Systems from 2. Within 10 days, send UST delivery certificate to TCEQ. |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|------------------------|--|
| <p>3. Failed to inspect and test the cathodic protection system for operability and adequacy of protection at least once every three years and failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating properly [30 TEX. ADMIN. CODE § 334.49(c)(4) and (c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>4. Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>5. Failed to provide proper release detection for the UST system. Specifically, failure to conduct piping and tightness tests, test line leak detectors annually, reconcile inventory records monthly, and gauge the tanks for the presence of water monthly. [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(IV); and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> | | <p>3. Within 15 days, submit written documentation demonstrating compliance with Ordering Provision No. 1.</p> <p>4. If electing to permanently remove from service any UST system at the Facility:</p> <ul style="list-style-type: none"> a. Permanently remove the UST system at the Facility in accordance with applicable law; and b. Within 15 days, submit to the TCEQ a written report documenting compliance with such laws. <p>5. Prior to resuming service of the UST:</p> <ul style="list-style-type: none"> a. Implement a release detection method; and b. Conduct triennial testing of the cathodic protection system. <p>6. Immediately upon resuming service of USTs:</p> <ul style="list-style-type: none"> a. Begin conducting effective manual or automatic inventory control procedures for all USTs; b. Begin reconciling inventory records on a monthly basis; and c. Begin gauging the tanks for the presence of water at least once a month. <p>7. Within 10 days after resuming service of the USTs, submit written certification and include detailed supporting documentation demonstrating compliance with Ordering Provisions No. 5 and 6.</p> |



Penalty Calculation Worksheet (PCW) PCW Revision May 19, 2005

| | | | | | | |
|--------------|---------------------|----------------------------|-----------|-------------|---------|--|
| DATES | Assigned PCW | 20-Jun-2005 27-Feb-2008 | Screening | 28-Jun-2005 | EPA Due | |
|--------------|---------------------|----------------------------|-----------|-------------|---------|--|

| | |
|--|-------------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Sao Traders Inc. dba Stop N Drive 2 |
| Reg. Ent. Ref. No. | RN102471190 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Minor Source |

| | | | |
|---------------------------------|------------------------|-------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 26046 | No. of Violations | 5 |
| Docket No. | 2005-1174-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Enf. Coordinator | Audra Ruble |
| Multi-Media | | EC's Team | Enforcement Team 4 |
| 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 -10% Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability No **Subtotal 4**

Notes

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

| | | |
|---------------|----------------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | X | (mark with a small x) |

Notes

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

| | | |
|----------------------------|---------|--|
| Total EB Amounts | \$188 | <small>*Capped at the Total EB \$ Amount</small> |
| Approx. Cost of Compliance | \$3,775 | |

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

OTHER FACTORS AS JUSTICE MAY REQUIRE 11% Enhancement **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 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 28-Jun-2005

Drive 2 cpw

Docket No. 2005-1174-PST-E

PCW

Respondent Sao Traders Inc. dba Stop N Drive 2

Policy Revision 2 (September 2002)

Case ID No. 26046

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102471190

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Audra Ruble

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) | 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% |
| Other | <i>Please Enter Yes or No</i> | | |
| | 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

A ten percent (10%) reduction is given for 'High Performer' classification.

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

| | | | | | |
|--|---|-------------------------------------|---|---|--|
| Screening Date | 28-Jun-2005 | Docket No. | 2005-1174-PST-E | PCW | |
| Respondent | Sao Traders Inc. dba Stop N Drive 2 | | <i>Policy Revision 2 (September 2002)</i> | | |
| Case ID No. | 26046 | <i>PCW Revision May 19, 2005</i> | | | |
| Reg. Ent. Reference No. | RN102471190 | | | | |
| Media [Statute] | Petroleum Storage Tank | | | | |
| Enf. Coordinator | Audra Ruble | | | | |
| Violation Number | 1 | | | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 334.8(c)(5)(A)(iii) | | | | |
| Secondary Rule Cite(s) | | | | | |
| Violation Description | Failed to ensure that a valid, current TCEQ delivery certificate posted at the Facility in a location where the document is clearly visible at all times. | | | | |
| Base Penalty | | | | \$10,000 | |
| >> Environmental, Property and Human Health Matrix | | | | | |
| Harm | | | | | |
| Release | Major | Moderate | Minor | | |
| Actual | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Percent <input type="text"/> | |
| Potential | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | |
| >> Programmatic Matrix | | | | | |
| Falsification | | | | | |
| | Major | Moderate | Minor | | |
| | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Percent <input type="text" value="10%"/> | |
| Matrix Notes | The respondent did not fulfill 100% of the rule requirement. | | | | |
| Adjustment | | | | -\$9,000 | |
| Base Penalty Subtotal | | | | \$1,000 | |
| Violation Events | | | | | |
| Number of Violation Events | | 1 | | | |
| <i>mark only one use a small x</i> | <i>daily</i> | <input type="checkbox"/> | | | |
| | <i>monthly</i> | <input type="checkbox"/> | | | |
| | <i>quarterly</i> | <input type="checkbox"/> | | | |
| | <i>semiannual</i> | <input type="checkbox"/> | | | |
| | <i>annual</i> | <input type="checkbox"/> | | | |
| | <i>single event</i> | <input checked="" type="checkbox"/> | | | |
| Violation Base Penalty | | | | \$1,000 | |
| One single event is recommended based on the March 30, 2005 investigation. | | | | | |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | |
| Estimated EB Amount | | \$1 | | | |
| Violation Final Penalty Total | | | | \$1,000 | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | \$1,000 | |

Economic Benefit Worksheet

Respondent Sao Traders Inc. dba Stop N Drive 2
 Case ID No. 26046
 Reg. Ent. Reference No. RN102471190
 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) | | | | 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) | \$25 | 30-Mar-2005 | 05-Mar-2006 | 0.9 | \$1 | n/a | \$1 |

Notes for DELAYED costs: Estimated cost to post the delivery certificate. Date Required is the investigation date and 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

TOTAL

Drive 2 copy

Screening Date 28-Jun-2005 **Docket No.** 2005-1174-PST-E **PCW**

Respondent Sao Traders Inc. dba Stop N Drive 2 *Policy Revision 2 (September 2002)*

Case ID No. 26046 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102471190

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Audra Ruble

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" value="10%"/> |
| | Potential | <input type="text"/> | x | <input type="text"/> | |

>> **Programmatic Matrix**

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

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 | x |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Sao Traders Inc. dba Stop N Drive 2
Case ID No. 26046
Reg. Ent. Reference No. RN102471190
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) | \$250 | 30-Mar-2005 | 05-Mar-2006 | 0.9 | \$12 | n/a | \$12 |

Notes for DELAYED costs: Estimated cost to anchor the bases of the shutoff valves. Date Required is the investigation date and 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 \$250 **TOTAL** \$12

| | | | | |
|---|--|--|--|---|
| Screening Date | 28-Jun-2005 | Docket No. | 2005-1174-PST-E | PCW |
| Respondent | Sao Traders Inc. dba Stop N Drive 2 | | | <small>Policy Revision 2 (September 2002)</small> |
| Case ID No. | 26046 | | | <small>PCW Revision May 19, 2005</small> |
| Reg. Ent. Reference No. | RN102471190 | | | |
| Media [Statute] | Petroleum Storage Tank | | | |
| Enf. Coordinator | Audra Ruble | | | |
| Violation Number | 3 | | | |
| Primary Rule Cite(s) | 30 Tex. Admin. Code § 334.49(c)(4) and 334.49(c)(2)(C) | | | |
| Secondary Rule Cite(s) | Tex. Water Code § 26.3475(d) | | | |
| Violation Description | Failed to inspect and test the cathodic protection system for operability and adequacy of protection at least once every three years. The respondent also failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating propoperly. | | | |
| | Base Penalty | \$10,000 | | |
| >> Environmental, Property and Human Health Matrix | | | | |
| | Harm | | | |
| | Release | Major | Moderate | Minor |
| OR | Actual | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | Potential | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Percent <input type="text" value="25%"/> | | |
| >> Programmatic Matrix | | | | |
| | Falsification | Major | Moderate | Minor |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | Percent <input type="text"/> | | |
| Matrix Notes | Failure to test and inspect the cathodic protection system could result in improper corrosion protection on the UST system and allow an undetected release of petroleum products which would exceed levels that are protective of human health or environmental receptors. | | | |
| | Adjustment | <input type="text" value="-\$7,500"/> | | |
| | Base Penalty Subtotal | <input type="text" value="\$2,500"/> | | |
| Violation Events | | | | |
| | Number of Violation Events | <input type="text" value="1"/> | | |
| | <small>mark only one use a small x</small> | daily <input type="checkbox"/> monthly <input type="checkbox"/> quarterly <input checked="" type="checkbox"/> semiannual <input type="checkbox"/> annual <input type="checkbox"/> single event <input type="checkbox"/> | Violation Base Penalty <input type="text" value="\$2,500"/> | |
| | One quarterly event is recommended based on the March 30, 2005 investigation date to the June 28, 2005 screening date. | | | |
| Economic Benefit (EB) for this violation | Statutory Limit Test | | | |
| Estimated EB Amount | Violation Final Penalty Total | <input type="text" value="\$47"/> | <input type="text" value="\$2,500"/> | |
| | This violation Final Assessed Penalty (adjusted for limits) | <input type="text" value="\$2,500"/> | | |

Economic Benefit Worksheet

Respondent Sao Traders Inc. dba Stop N Drive 2
 Case ID No. 26046
 Reg. Ent. Reference No. RN102471190
 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 | | | | 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) | \$1,000 | 30-Mar-2005 | 05-Mar-2006 | 0.9 | \$47 | n/a | \$47 |

Notes for DELAYED costs: Estimated cost to test and inspect the cathodic protection system for the two USTs. Date Required is the investigation date and 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

TOTAL

Screening Date 28-Jun-2005

Drive 2.dpw

Docket No. 2005-1174-PST-E

PCW

Respondent Sao Traders Inc. dba Stop N Drive 2

Policy Revision 2 (September 2002)

Case ID No. 26046

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102471190

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Audra Ruble

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" value="25%"/> |
| | Potential | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

>> Programmatic Matrix

| | | Major | Moderate | Minor | |
|--------------|---------------|----------------------|----------------------|----------------------|------------------------------|
| Matrix Notes | Falsification | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text"/> |
| | | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

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 Sao Traders Inc. dba Stop N Drive 2
Case ID No. 26046
Reg. Ent. Reference No. RN102471190
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 | | | | 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) | \$1,000 | 30-Mar-2005 | 05-Mar-2006 | 0.9 | \$47 | n/a | \$47 |

Notes for DELAYED costs: Estimated cost includes the amount to conduct effective inventory control per year. Date Required is the investigation date and 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 \$1,000 **TOTAL** \$47

Screening Date 28-Jun-2005

Drive 2.cpw

Docket No. 2005-1174-PST-E

PCW

Respondent Sao Traders Inc. dba Stop N Drive 2

Policy Revision 2 (September 2002)

Case ID No. 26046

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102471190

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Audra Ruble

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" value="25%"/> |
| | Potential | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | |

>> Programmatic Matrix

| | | Falsification | Major | Moderate | Minor | |
|--------------|---|----------------------|----------------------|----------------------|----------------------|------------------------------|
| | | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text"/> |
| Matrix Notes | <input type="text" value="Failure to provide the proper release detection for the UST system could result in the release of a significant amount of pollutants which would exceed levels that are protective of human health or environmental receptors."/> | | | | | |

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 Sao Traders Inc. dba Stop N Drive 2
Case ID No. 26046
Reg. Ent. Reference No. RN102471190
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 | Percent Interest | Years of Depreciation |
|--------------------------|-----------|---------------|-------------|-----|----------------|------------------|-----------------------|
| | | | | | | 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 | 30-Mar-2005 | 05-May-2006 | 1.1 | \$82 | n/a | \$82 |

Notes for DELAYED costs: Estimated cost of compliance. Date Required is the investigation date and 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 **\$1,500** **TOTAL \$82**

Compliance History

| | | | |
|---|--|----------------------|---|
| Customer/Respondent/Owner-Operator: | CN600862544 SAO Traders Inc. | Classification: HIGH | Rating: 0.00 |
| Regulated Entity: | RN102471190 STOP N DRIVE 2 | Classification: HIGH | Site Rating: 0.00 |
| ID Number(s): | PETROLEUM STORAGE TANK REGISTRATION | REGISTRATION | 27217 |
| Location: | 7431 HIGHWAY 59 S, SHEPHERD, TX, 77371 | | Rating Date: 9/1/2005 Repeat Violator: NO |
| TCEQ Region: | REGION 10 - BEAUMONT | | |
| Date Compliance History Prepared: | September 22, 2005 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | September 22, 2000 to September 22, 2005 | | |

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

Name: A. Sunday Udoetok Phone: (512) 239 0739

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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 05/26/2005 (376124)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SAO TRADERS INC. DBA STOP N
DRIVE 2,
RN102471190

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BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT AND SHUTDOWN ORDER
DOCKET NO. 2005-1174-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, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The Commission also considered the motion of the Executive Director requesting entry of an Order requiring the respondent to shutdown or remove from service the Underground Storage Tanks ("USTs") at the respondent's facility located at 7431 Highway 59 South, Shepherd, San Jacinto County, Texas. The respondent made the subject of this Order is SAO Traders, Inc. dba Stop N Drive 2 ("SAO Traders").

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

FINDINGS OF FACT

1. SAO Traders owns and/or operates a convenience store with retail sales of gasoline located at 7431 Highway 59 South in Shepherd, San Jacinto County, Texas (the "Facility").
2. SAO Traders' three USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. SAO Traders' USTs contain a regulated substance as defined in the rules of the Commission.
3. During an inspection on March 30, 2005, a TCEQ Houston Regional Office investigator documented that SAO Traders:

- a. failed to ensure that a valid, current TCEQ delivery certificate was posted at the Facility in a location where the document is clearly visible at all times;
 - b. failed to install and maintain a secure anchor base of each UL-listed emergency shutoff valve (shear or impact) in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, the shear valves under all three dispensers were not anchored;
 - c. failed to inspect and test the cathodic protection system for operability and adequacy of protection at least once every three years. The Respondent also failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating properly;
 - d. failed to conduct effective manual or automatic inventory control procedures for the UST system;
 - e. failed to provide proper release detection for the UST system. Specifically, the Respondent failed to conduct piping and tightness tests, failed to test the line leak detectors at least once a year for performance and operational reliability, reconcile inventory records on a monthly basis, and failed to gauge the tanks for the presence of water at least once a month.
4. In a letter dated May 26, 2005, the TCEQ Enforcement Division mailed SAO Traders a letter that included the alleged violations and notice that the TCEQ has the authority to order the shutdown of UST facilities for violations of release detection, spill and overfill, or corrosion protection requirements, and that such a shutdown order is ultimately enforceable through the State of Texas Office of the Attorney General.
 5. SAO Traders received notice of the violation on or about May 31, 2005.
 6. The Executive Director recognizes that SAO Traders has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. On April 18, 2005, SAO Traders provided documentation to the TCEQ that a valid, current TCEQ delivery certificate had been posted at the Facility, in a location where the document is clearly visible at all times.
 - b. A secure anchor at the base of each UL-listed emergency shutoff valve was installed, as documented with the TCEQ on April 18, 2005.

- c. The impressed current cathodic protection system was successfully tested on March 31, 2005, as documented with the TCEQ on April 18, 2005.
 - d. A piping tightness test was successfully conducted on April 7, 2005, as documented with the TCEQ on April 18, 2005.
 - e. On April 18, 2005, Sao Traders provided documentation that the line leak detectors were successfully tested for performance and operational reliability on April 7, 2005
7. 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 SAO Traders, Inc. dba Stop N Drive 2" (the "EDPRP") in the TCEQ Chief Clerk's office on January 27, 2006.
 8. By letter dated January 27, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served SAO Traders with notice of the EDPRP. According to the return receipt "green card," SAO Traders received notice of the EDPRP on February 10, 2006, as evidenced by the signature on the card.
 9. The Executive Director filed the "Executive Director's First Amended 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 SAO Traders, Inc. dba Stop N Drive 2" (the "EDFARP") in the TCEQ Chief Clerk's office on February 29, 2008.
 10. By letter dated February 29, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served SAO Traders with notice of the EDFARP. According to the return receipt "green card," SAO Traders received notice of the EDFARP on March 3, 2008, as evidenced by the signature on the card.
 11. By letter dated April 4, 2008, the TCEQ provided SAO Traders with notice of the TCEQ's intent to order SAO Traders' USTs shutdown if the violations pertaining to release detection were not corrected within 30 days of SAO Traders' receipt of the letter.
 12. More than 20 days have elapsed since SAO Traders received notice of the EDPRP and EDFARP, provided by the Executive Director. SAO Traders failed to file an answer to the EDPRP or EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

13. As of the date of entry of this Order, SAO Traders has not corrected the violations noted during the August 18, 2006 inspection, with the exception of the corrective action noted in Finding of Fact No. 6.
14. The USTs at the Facility which do not have a release release detection system as required by 30 TEX. ADMIN. CODE § 334.50 and TEX. WATER CODE § 26.3475 may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Facility constitute an immediate peril to public health, safety and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, SAO Traders is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., SAO Traders failed to ensure that a valid, current TCEQ delivery certificate was posted at the Facility in a location where the document is clearly visible at all times, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
3. As evidenced by Finding of Fact No. 3.b., SAO Traders failed to install and maintain a secure anchor base of each UL-listed emergency shutoff valve (shear or impact) in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A).
4. As evidenced by Finding of Fact No. 3.c., SAO Traders failed to inspect and test the cathodic protection system for operability and adequacy of protection at least once every three years and failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and (c)(2)(C), and TEX. WATER CODE § 26.3475(d).
5. As evidenced by Finding of Fact No. 3.d., SAO Traders failed to conduct effective manual or automatic inventory control procedures for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
6. As evidenced by Finding of Fact No. 3.e., SAO Traders failed to provide proper release detection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(IV); and Tex. Water Code § 26.3475(a) and (c)(1).

7. As evidenced by Findings of Fact Nos. 7, 8, 9, and 10, the Executive Director has timely served SAO Traders with proper notice of the EDPRP and EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 12, SAO Traders has failed to file a timely answer to the EDPRP or EDFARP, 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 SAO Traders and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against SAO Traders 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.
10. An administrative penalty in the amount of nine thousand five hundred dollars (\$9,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. As evidence by Findings of Fact Nos. 3, 4, 5, 11, and 13, SAO Traders failed to correct documented violations of Commission requirements within 30 days after SAO Traders received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
12. 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.
13. TEX. WATER CODE § 26.3475(e) authorizes the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping; spill and overflow prevention for tanks; and/or corrosion protection for tanks and piping.
14. 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.

15. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke SAO Traders' UST delivery certificate if the Commission finds that good cause exists.
16. Good cause for revocation of SAO Traders' UST delivery certificate exists as justified by Findings of Fact Nos. 3, 7, 8, 9, 10, and 12, and Conclusions of Law Nos. 2, 3, 4, 5, and 6.
17. As evidence by Finding of Fact No. 14, current conditions at the Facility constitute an imminent peril to public health, safety and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

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

1. SAO Traders is assessed an administrative penalty in the amount of nine thousand five hundred dollars (\$9,500.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and SAO Traders' 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: SAO Traders, Inc. dba Stop N Drive 2; Docket No. 2005-1174-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. Immediately upon the effective date of this Order:
 - a. SAO Traders shall take the following steps to shut down operations of the non-compliant UST systems at the Facility:
 - i. Cease dispensing fuel from the USTs;
 - ii. Cease receiving deliveries of regulated substances to the USTs;

- iii. Padlock the dispensers;
 - iv. Empty the UST Systems of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(e); and
 - v. Temporarily remove the UST Systems from Service in accordance with 30 TEX. ADMIN. CODE § 334.54.
 - b. SAO Traders' UST delivery certificate is revoked. SAO Traders may submit an application for a new delivery certificate only after SAO Traders has complied with all of the requirements of this Order.
3. Within 15 days after the effective date of this Order, SAO Traders shall submit to the Executive Director a detailed written report, documenting the steps that it has taken to comply with Ordering Provision Nos. 2.a.i. through 2.a.v. SAO Traders shall submit the report to:

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

and

Derek Eades, Waste Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Fwy.
Beaumont, Texas 77703-1892
4. Within 10 days after the effective date of this Order, SAO Traders 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
5. If SAO Traders elects to permanently remove from service any UST system at the Facility, SAO Traders shall immediately and permanently remove the UST system at the

**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SAO TRADERS INC. DBA STOP N
DRIVE 2,
RN102471190**

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**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT AND SHUTDOWN ORDER
DOCKET NO. 2005-1174-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, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The Commission also considered the motion of the Executive Director requesting entry of an Order requiring the respondent to shutdown or remove from service the Underground Storage Tanks ("USTs") at the respondent's facility located at 7431 Highway 59 South, Shepherd, San Jacinto County, Texas. The respondent made the subject of this Order is SAO Traders, Inc. dba Stop N Drive 2 ("SAO Traders").

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

FINDINGS OF FACT

1. SAO Traders owns and/or operates a convenience store with retail sales of gasoline located at 7431 Highway 59 South in Shepherd, San Jacinto County, Texas (the "Facility").
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3. During an inspection on March 30, 2005, a TCEQ Houston Regional Office investigator documented that SAO Traders:

- a. failed to ensure that a valid, current TCEQ delivery certificate was posted at the Facility in a location where the document is clearly visible at all times;
 - b. failed to install and maintain a secure anchor base of each UL-listed emergency shutoff valve (shear or impact) in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, the shear valves under all three dispensers were not anchored;
 - c. failed to inspect and test the cathodic protection system for operability and adequacy of protection at least once every three years. The Respondent also failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating properly;
 - d. failed to conduct effective manual or automatic inventory control procedures for the UST system;
 - e. failed to provide proper release detection for the UST system. Specifically, the Respondent failed to conduct piping and tightness tests, failed to test the line leak detectors at least once a year for performance and operational reliability, reconcile inventory records on a monthly basis, and failed to gauge the tanks for the presence of water at least once a month.
4. In a letter dated May 25, 2005, the TCEQ Enforcement Division mailed SAO Traders a letter that included the alleged violations and notice that the TCEQ has the authority to order the shutdown of UST facilities for violations of release detection, spill and overflow, or corrosion protection requirements, and that such a shutdown order is ultimately enforceable through the State of Texas Office of the Attorney General.
 5. SAO Traders received notice of the violation on or about May 31, 2005.
 6. The Executive Director recognizes that SAO Traders has implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. On April 18, 2005, SAO Traders provided documentation to the TCEQ that a valid, current TCEQ delivery certificate had been posted at the Facility, in a location where the document is clearly visible at all times.
 - b. A secure anchor at the base of each UL-listed emergency shutoff valve was installed, as documented with the TCEQ on April 18, 2005.

- c. The impressed current cathodic protection system was successfully tested on March 31, 2005, as documented with the TCEQ on April 18, 2005.
 - d. A piping tightness test was successfully conducted on April 7, 2005, as documented with the TCEQ on April 18, 2005.
 - e. On April 18, 2005, Sao Traders provided documentation that the line leak detectors were successfully tested for performance and operational reliability on April 7, 2005
7. 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 SAO Traders, Inc. dba Stop N Drive 2" (the "EDPRP") in the TCEQ Chief Clerk's office on January 27, 2006.
 8. By letter dated January 27, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served SAO Traders with notice of the EDPRP. According to the return receipt "green card," SAO Traders received notice of the EDPRP on February 10, 2006, as evidenced by the signature on the card.
 9. The Executive Director filed the "Executive Director's First Amended 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 SAO Traders, Inc. dba Stop N Drive 2" (the "EDFARP") in the TCEQ Chief Clerk's office on February 29, 2008.
 10. By letter dated February 29, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served SAO Traders with notice of the EDFARP. According to the return receipt "green card," SAO Traders received notice of the EDFARP on March 3, 2008, as evidenced by the signature on the card.
 11. By letter dated April 4, 2008, the TCEQ provided SAO Traders with notice of the TCEQ's intent to order SAO Traders' USTs shutdown if the violations pertaining to release detection were not corrected within 30 days of SAO Traders' receipt of the letter.
 12. More than 20 days have elapsed since SAO Traders received notice of the EDPRP and EDFARP, provided by the Executive Director. SAO Traders failed to file an answer to the EDPRP or EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

13. As of the date of entry of this Order, SAO Traders has not corrected the violations noted during the August 18, 2006 inspection, with the exception of the corrective action noted in Finding of Fact No. 6.
14. The USTs at the Facility which do not have a release release detection system as required by 30 TEX. ADMIN. CODE § 334.50 and TEX. WATER CODE § 26.3475 may be releasing petroleum products to the environment without the knowledge of the tank owner or operator. Therefore, conditions at the Facility constitute an immediate peril to public health, safety and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, SAO Traders is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., SAO Traders failed to ensure that a valid, current TCEQ delivery certificate was posted at the Facility in a location where the document is clearly visible at all times, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
3. As evidenced by Finding of Fact No. 3.b., SAO Traders failed to install and maintain a secure anchor base of each UL-listed emergency shutoff valve (shear or impact) in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A).
4. As evidenced by Finding of Fact No. 3.c., SAO Traders failed to inspect and test the cathodic protection system for operability and adequacy of protection at least once every three years and failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components were operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and (c)(2)(C), and TEX. WATER CODE § 26.3475(d).
5. As evidenced by Finding of Fact No. 3.d., SAO Traders failed to conduct effective manual or automatic inventory control procedures for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
6. As evidenced by Finding of Fact No. 3.e., SAO Traders failed to provide proper release detection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(IV); and Tex. Water Code § 26.3475(a) and (c)(1).

7. As evidenced by Findings of Fact Nos. 7, 8, 9, and 10, the Executive Director has timely served SAO Traders with proper notice of the EDPRP and EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 12, SAO Traders has failed to file a timely answer to the EDPRP or EDFARP, 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 SAO Traders and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against SAO Traders 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.
10. An administrative penalty in the amount of nine thousand five hundred dollars (\$9,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. As evidence by Findings of Fact Nos. 3, 4, 5, 11, and 13, SAO Traders failed to correct documented violations of Commission requirements within 30 days after SAO Traders received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
12. 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.
13. TEX. WATER CODE § 26.3475(e) authorizes the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping; spill and overflow prevention for tanks; and/or corrosion protection for tanks and piping.
14. 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.

15. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke SAO Traders' UST delivery certificate if the Commission finds that good cause exists.
16. Good cause for revocation of SAO Traders' UST delivery certificate exists as justified by Findings of Fact Nos. 3, 7, 8, 9, 10, and 12, and Conclusions of Law Nos. 2, 3, 4, 5, and 6.
17. As evidence by Finding of Fact No. 14, current conditions at the Facility constitute an imminent peril to public health, safety and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

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

1. SAO Traders is assessed an administrative penalty in the amount of nine thousand five hundred dollars (\$9,500.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and SAO Traders' 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: SAO Traders, Inc. dba Stop N Drive 2; Docket No. 2005-1174-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. Immediately upon the effective date of this Order:
 - a. SAO Traders shall take the following steps to shut down operations of the non-compliant UST systems at the Facility:
 - i. Cease dispensing fuel from the USTs;
 - ii. Cease receiving deliveries of regulated substances to the USTs;

- iii. Padlock the dispensers;
 - iv. Empty the UST Systems of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(e); and
 - v. Temporarily remove the UST Systems from Service in accordance with 30 TEX. ADMIN. CODE § 334.54.
- b. SAO Traders' UST delivery certificate is revoked. SAO Traders may submit an application for a new delivery certificate only after SAO Traders has complied with all of the requirements of this Order.
3. Within 15 days after the effective date of this Order, SAO Traders shall submit to the Executive Director a detailed written report, documenting the steps that it has taken to comply with Ordering Provision Nos. 2.a.i. through 2.a.v. SAO Traders shall submit the report to:

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

and

Derek Erbes, Waste Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Fwy.
Beaumont, Texas 77703-1892

4. Within 10 days after the effective date of this Order, SAO Traders 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

5. If SAO Traders elects to permanently remove from service any UST system at the Facility, SAO Traders shall immediately and permanently remove the UST system at the

Facility in accordance with 30 TEX. ADMIN. CODE § 334.55. If SAO Traders permanently removes any UST system from service, SAO Traders shall, within 15 days after the effective date of this Order, submit to the commission a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55. SAO Traders shall submit the report to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Prior to resuming service of the USTs, SAO Traders shall:
 - a. implement a release detection method, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - b. Conduct testing of the cathodic protection system, in accordance with 30 Tex. Admin. Code § 334.49
7. Immediately upon resuming service of the USTs, SAO Traders shall:
 - a. Begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 Tex. Admin. Code § 334.48; and
 - b. Begin reconciling inventory records on a monthly basis, in accordance with 30 Tex. Admin. Code § 334.50.
 - c. Begin gauging the tanks for the presence of water at least once a month, in accordance with 30 Tex. Admin. Code § 334.50.
8. Within 10 days after resuming service of the USTs, SAO Traders shall submit written certification as described below, and include detailed supporting documentation including photographs, receipt, and/or other records to demonstrate compliance with Ordering Provisions No. 6 and 7.

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

and

Derek Eades, Waste Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Fwy.
Beaumont, Texas 77703-1892

9. All relief not expressly granted in this Order is denied.
10. The provisions of this Order shall apply to and be binding upon SAO Traders. SAO Traders is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
11. 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 SAO Traders shall be made in writing to the Executive Director. Extensions are not effective until SAO Traders receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
12. 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 SAO Traders if the Executive Director determines that SAO Traders has not complied with one or more of the terms or conditions in this Order.
13. 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.

14. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BENJAMIN O. THOMPSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Benjamin O. Thompson. 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 SAO Traders, Inc. dba Stop N Drive 2" (the "EDPRP") was filed with the Office of the Chief Clerk on January 27, 2006.

The EDPRP was sent to SAO Traders at its last known address on January 27, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," SAO Traders received notice of the EDPRP on February 10, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended 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 SAO Traders, Inc. dba Stop N Drive 2" (the "EDFARP") with the Office of the Chief Clerk on February 29, 2008.

The EDFARP was sent to SAO Traders at its last known address on February 29, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," SAO Traders received notice of the EDFARP on March 3, 2008, as evidenced by the signature on the card.

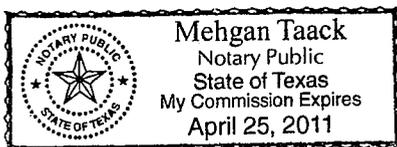
More than 20 days have elapsed since SAO Traders received notice of the EDPRP and EDFARP. SAO Traders failed to file an answer to the EDPRP or EDFARP, failed to request a hearing, and failed to schedule a settlement conference."



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 4th day of April, A.D., 2008.





Notary Stamp