

CAPTION: Docket No. 2008-0395-PST-E. Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of G & R STORE, INC. dba 1 Stop Food Store in Denton County; RN101562346; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Judy Kluge, Bryan Sinclair)

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0395-PST-E **TCEQ ID:** RN101562346 **CASE NO.:** 35501

RESPONDENT NAME: G & R STORE, INC. dba 1 Stop Food Store

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 1 Stop Food Store, 502 South Old Orchard Lane, Lewisville, Denton 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 location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 11, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, R-04, (817) 588-5825; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Ramzan Rajwany, Owner, G & R STORE, INC. dba 1 Stop Food Store, 502 South Old Orchard Lane, Lewisville, Texas 75067 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: 1/17/2008</p> <p>Date of NOV/NOE Relating to this Case: 2/12/2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to ensure that all underground storage tanks ("USTs") are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge ("ATG") was not programmed to test the two manifolded tanks [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failure to conduct proper release detection for the pressurized piping associated with UST systems. Specifically, the Respondent did not conduct the annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>3) Failure to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>4) Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE §</p>	<p>Total Assessed: \$11232</p> <p>Total Deferred: \$2246 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$271 (remaining \$8,715 due in 35 monthly payments of \$249 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. The TCEQ DFW Regional Office received documentation verifying that the Respondent successfully conducted piping tightness testing for the product lines on February 6, 2008;</p> <p>b. The TCEQ DFW Regional Office received documentation verifying that the Respondent successfully conducted line leak detector performance testing on February 6, 2008;</p> <p>c. The TCEQ DFW Regional Office received documentation verifying that the ATG was properly programmed on February 6, 2008; and</p> <p>d. The TCEQ DFW Regional Office received documentation verifying that on February 6, 2008, the Respondent successfully conducted the required system test and annual testing of the Stage II equipment.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Begin conducting reconciliation of inventory control records;</p> <p>ii. Implement a method of corrosion protection for all underground metal components of the UST system; and</p> <p>iii. Install the required CARB approved Stage I vapor adaptors to prevent loosening or over-tightening.</p> <p>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</p>

<p>334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>6) Failure to provide corrosion protection to all underground metal components of an UST system which is used to convey or contain regulated substances. Specifically, flex connectors are buried directly in the backfill and not protected from corrosion [30 TEX. ADMIN. CODE § 334.49(a)(4) and TEX. WATER CODE § 26.3475(d)].</p> <p>7) Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by California Air Resources Board (“CARB”) Executive Order, and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component that is a part of the approved system. Specifically, the USTs were not equipped with product and Stage I vapor adaptors which prevent loosening and over-tightening [30 TEX. ADMIN. CODE § 115.242(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>8) Failure to successfully complete all applicable tests using the procedures required in the Commission’s Vapor Recovery Test Procedures Handbook (RG-399, November 2002). Specifically, the initial system test of the Healy 400 onboard refueling vapor recovery system had not been completed and the Stage II annual system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(1) and (2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>to demonstrate compliance with Ordering Provisions a.i and a.iii.</p>
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Additional ID No(s): PST 27145



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

TCEQ

DATES	Assigned	19-Feb-2008	Screening	27-Feb-2008	EPA Due	
	PCW	3-Mar-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	G & R STORE, INC. dba 1 Stop Food Store
Reg. Ent. Ref. No.	RN101562346
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	35501	No. of Violations	4	
Docket No.	2008-0395-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge	
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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

Before NOV NOV to EDP RP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE 26% Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 20% Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 27-Feb-2008

Docket No. 2008-0395-PST-E

PCW

Respondent G & R STORE, INC. dba 1 Stop Food Store

Policy Revision 2 (September 2002)

Case ID No. 35501

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN101562346

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

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

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) 5%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date 27-Feb-2008	Docket No. 2008-0395-PST-E	PCW
Respondent G & R STORE, INC. dba 1 Stop Food Store	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35501	<i>PCW Revision February 29, 2008</i>	
Reg. Ent. Reference No. RN101562346		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number	1	
Rule Cite(s)	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)(i), and Tex. Water Code § 26.3475(a) and (c)(1)	
Violation Description	Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauging equipment was not programmed to test the two manifolded tanks. Failed to provide proper release detection for the pressurized piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.	
Base Penalty		\$10,000
>> Environmental, Property and Human Health Matrix		
OR	Harm	
	Release Major Moderate Minor	
	Actual	
	Potential	Percent 25%
	x	
>>Programmatic Matrix		
	Falsification Major Moderate Minor	
	Percent	0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.	
Adjustment		\$7,500
		\$2,500
Violation Events		
Number of Violation Events	1	41 Number of violation days
<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	
Violation Base Penalty		\$2,500
One quarterly event is recommended based on documentation of the violation during the January 17, 2008 investigation to the February 27, 2008 screening date.		
Economic Benefit (EB) for this violation		Statutory Limit Test
Estimated EB Amount	\$1,103	Violation Final Penalty Total \$3,304
This violation Final Assessed Penalty (adjusted for limits)		\$3,304

Economic Benefit Worksheet

Respondent G & R STORE, INC. dba 1 Stop Food Store
Case ID No. 35501
Reg. Ent. Reference No. RN101562346
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	17-Jan-2008	6-Feb-2008	0.1	\$4	n/a	\$4

Notes for DELAYED costs Estimated cost to provide release detection which includes conducting proper inventory control procedures for the USTs at the Station. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	17-Jan-2007	6-Feb-2008	2.0	\$99	\$1,000	\$1,099
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs Avoided cost for conducting annual piping tightness test and line leak detector test. Date required is one year prior to the investigation date and final date is the compliance date.

Approx. Cost of Compliance	\$2,500	TOTAL	\$1,103
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Screening Date 27-Feb-2008	Docket No. 2008-0395-PST-E	PCW		
Respondent G & R STORE, INC. dba 1 Stop Food Store	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 35501	<i>PCW Revision February 29, 2008</i>			
Reg. Ent. Reference No. RN101562346				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 334.49(a)(4) and Tex. Water Code § 26.3475(d)			
Violation Description	Failed to provide corrosion protection to all underground metal components of an UST system which is used to convey or contain regulated substances. Specifically, flex connectors are buried directly in the backfill and not protected from corrosion.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	x	<input type="text"/>	<input type="text"/>
		Percent	25%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		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	Number of violation days	
		41		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty \$2,500	
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One quarterly event is recommended based on documentation of the violation during the January 17, 2008 investigation to the February 27, 2008 screening date.				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$26	Violation Final Penalty Total	
			\$3,304	
This violation Final Assessed Penalty (adjusted for limits)			\$3,304	

Economic Benefit Worksheet

Respondent G & R STORE, INC. dba 1 Stop Food Store
Case ID No. 35501
Reg. Ent. Reference No. RN101562346
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment	\$500	17-Jan-2008	17-Oct-2008	0.8	\$1	\$25	\$26
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

Estimated cost to provide corrosion protection to all underground metal components of the USTs at the Station.
 Date required is the investigation date and final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$26

Screening Date 27-Feb-2008	Docket No. 2008-0395-PST-E	PCW		
Respondent G & R STORE, INC. dba 1 Stop Food Store	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 35501	<i>PCW Revision February 29, 2008</i>			
Reg. Ent. Reference No. RN101562346				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 115.242(3)(A) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by California Air Resources Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component that is a part of the approved system. Specifically, the USTs were not equipped with product and Stage I vapor adaptors which prevent loosening and over-tightening.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	x	<input type="text"/>
		Percent	10%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	0%	
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment		\$9,000		
		\$1,000		
Violation Events				
Number of Violation Events		1	Number of violation days	
		41		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One quarterly event is recommended based on documentation of the violation during the January 17, 2008 investigation to the February 27, 2008 screening date.				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$19	Violation Final Penalty Total	
			\$1,321	
This violation Final Assessed Penalty (adjusted for limits)			\$1,321	

Economic Benefit Worksheet

Respondent G & R STORE, INC. dba 1 Stop Food Store
Case ID No. 35501
Reg. Ent. Reference No. RN101562346
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$500	17-Jan-2008	17-Oct-2008	0.8	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to install adaptors to prevent loosening or over-tightening of the Stage I equipment. Date required is the investigation date and final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$19

Screening Date 27-Feb-2008	Docket No. 2008-0395-PST-E	PCW		
Respondent G & R STORE, INC. dba 1 Stop Food Store	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 35501	<small>PCW Revision February 29, 2008</small>			
Reg. Ent. Reference No. RN101562346				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	4			
Rule Cite(s)	30 Tex. Admin. Code § 115.245(1) and (2) and Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to successfully complete all applicable tests using the procedures in the Commission's Vapor Recovery Test Procedures Handbook (RG-399, November 2002). Specifically, the initial system test of the Healy 400 ORVR system had not been completed and the Stage II annual system compliance testing had not been conducted.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	x	<input type="text"/>	<input type="text"/>
		Percent	25%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	0%	
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would not 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	Number of violation days	
		20		
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	x		
	single event	<input type="text"/>	\$2,500	
One annual event is recommended for the 12 month period preceeding the January 17, 2008 investigation.				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$1,209	Violation Final Penalty Total	\$3,304	
		This violation Final Assessed Penalty (adjusted for limits)	\$3,304	

Economic Benefit Worksheet

Respondent G & R STORE, INC. dba 1 Stop Food Store
Case ID No. 35501
Reg. Ent. Reference No. RN101562346
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	17-Jan-2008	6-Feb-2008	0.1	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to successfully complete all applicable tests required in the Vapor Recovery Test Procedures Handbook. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,100	17-Jan-2007	6-Feb-2008	2.0	\$108	\$1,100	\$1,208
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs Estimated cost for completing the initial system test and annual testing to verify proper operation of the Stage II equipment. Date required is one year prior to the investigation date and final date is the compliance date.

Approx. Cost of Compliance	\$1,200	TOTAL	\$1,209
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Compliance History

Customer/Respondent/Owner-Operator:	CN600826895 G & R STORE, INC.	Classification: AVERAGE	Rating: 2.40
Regulated Entity:	RN101562346 1 STOP FOOD STORE	Classification: AVERAGE	Site Rating: 2.40
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		27145
Location:	502 S OLD ORCHARD LN, LEWISVILLE, TX, 75067	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 14, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 14, 2003 to March 14, 2008		

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

Name: Philip DeFrancesco Phone: (817) 588-5933

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	05/30/2003	(61569)
2	01/12/2006	(438994)
3	06/08/2006	(480932)
4	02/12/2008	(614445)

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

Date: 01/12/2006 (438994)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Failure to conduct daily inspections of the Stage II vapor recovery system for the defects specified in §115.242(3)(A) - (F), (H), and (K).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee (so long as employed).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system and any related components installed at the facility.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(K)

Description: Failure to maintain the Stage II vapor recovery system in proper operating

condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including a system monitor or printer that is malfunctioning or out of paper.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify proper operation of the Stage II equipment at least once every 36 months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: Failure to maintain a record of the results of testing conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in §115.245 of this title (relating to Testing Requirements).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)

Description: Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system. These instructions shall, at a minimum, include:

- A. a clear description of how to correctly dispense gasoline using the system;
- B. a warning against attempting to continue to refuel after

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
G & R STORE, INC. DBA 1 STOP
FOOD STORE
RN101562346**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0395-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 G & R STORE, INC. dba 1 Stop Food Store ("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 502 South Old Orchard Lane in Lewisville, Denton County, Texas (the "Station").
2. The Respondent's four 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 February 17, 2008.
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 Eleven Thousand Two Hundred Thirty-Two Dollars (\$11,232) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Seventy-One Dollars (\$271) of the administrative penalty and Two Thousand Two Hundred Forty-Six Dollars (\$2,246) is deferred contingent upon the Respondent's timely and satisfactory compliance with all 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 Eight Thousand Seven Hundred Fifteen Dollars (\$8,715) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Forty-Nine Dollars (\$249) 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 recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent successfully conducted piping tightness testing for the product lines on February 6, 2008;
 - b. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent successfully conducted line leak detector performance testing on February 6, 2008;
 - c. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the automatic tank gauge ("ATG") was properly programmed on February 6, 2008; and
 - d. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that on February 6, 2008, the Respondent successfully conducted the required system test and annual testing of the Stage II equipment.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at 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 January 17, 2008. Specifically, the ATG was not programmed to test the two manifolded tanks.
2. Failed to conduct proper release detection for the pressurized piping associated with UST systems, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on January 17, 2008. Specifically, the Respondent did not conduct the annual piping tightness test.
3. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on January 17, 2008. Specifically, the line leak detectors had not been performance tested annually.
4. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent 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 January 17, 2008.
5. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on January 17, 2008.
6. Failed to provide corrosion protection to all underground metal components of an UST system which is used to convey or contain regulated substances, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on January 17, 2008. Specifically, flex connectors are buried directly in the backfill and not protected from corrosion.
7. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by California Air Resources Board ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component

that is a part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 17, 2008. Specifically, the USTs were not equipped with product and Stage I vapor adaptors which prevent loosening and over-tightening.

8. Failed to successfully complete all applicable tests using the procedures required in the Commission's Vapor Recovery Test Procedures Handbook (RG-399, November 2002), in violation of 30 TEX. ADMIN. CODE § 115.245(1) and (2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 17, 2008. Specifically, the initial system test of the Healy 400 onboard refueling vapor recovery system had not been completed and the Stage II annual system compliance testing had not been conducted.

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: G & R STORE, INC. dba 1 Stop Food Store, Docket No. 2008-0395-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. Begin conducting reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - ii. Implement a method of corrosion protection for all underground metal components of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - iii. Install the required CARB approved Stage I vapor adaptors to prevent loosening or over-tightening, in accordance with 30 TEX. ADMIN. CODE § 115.242.

- 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 and 2.a.iii. 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon 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 Siddle

For the Executive Director

3/3/08

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.

Ramzan Rajwani

Signature

5/28/08

Date

Ramzan Rajwani

Name (Printed or typed)
Authorized Representative of
G & R STORE, INC. dba 1 Stop Food Store

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.

