

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2008-0908-PST-E **TCEQ ID:** RN101559573 **CASE NO.:** 36036
RESPONDENT NAME: FOCUS METROPLEX, INC. dba City Star

| | | |
|---|---|--|
| 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: City Star, 5200 Rufe Snow Drive, North Richland Hills, Tarrant 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 December 1, 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, MC R-04, (817) 588-5825; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Karim Kalyan, Owner, City Star, 5200 Rufe Snow Drive, North Richland Hills, Texas 76180 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: May 13, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 29, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, including, but not limited to, absence or disconnection of any component that is a part of the approved system. Specifically, the underground storage tanks ("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>2) Failure 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 gauge probe for the diesel tank was not functioning [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to ensure that a cathodic protection system is designed, installed, operated, and maintained in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system [30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d)].</p> | <p>Total Assessed: \$5,400</p> <p>Total Deferred: \$1,080 <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: \$120 (remaining \$4,200 due in 35 monthly payments of \$120 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 as of June 30, 2008, the USTs have been equipped with product and Stage I vapor adaptors;</p> <p>b. The TCEQ DFW Regional Office received documentation verifying that on June 5, 2008, the Respondent repaired the automatic tank gauge probe for the diesel tank; and</p> <p>c. The TCEQ DFW Regional Office received documentation verifying that as of June 30, 2008, corrosion protection has been installed on all components of the underground UST system.</p> |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

| | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|
| DATES | Assigned | 2-Jun-2008 | | | |
| | PCW | 12-Jun-2008 | Screening | 4-Jun-2008 | EPA Due |

| | |
|--|-------------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | FOCUS METROPLEX, INC. dba City Star |
| Reg. Ent. Ref. No. | RN101559573 |
| Facility/Site Region | 4-Dallas/Fort Worth |
| Major/Minor Source | Minor |

| | | | |
|--|------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36036 | No. of Violations | 3 |
| Docket No. | 2008-0908-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Judy Kluge |
| | | 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 | \$6,000 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|------------------|--------------------------------|-----|
| Compliance History | 0.0% Enhancement | Subtotals 2, 3, & 7 | \$0 |
|---------------------------|------------------|--------------------------------|-----|

Notes: No adjustment due to Average Performer classification.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-------|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$600 |
|--|-------------------|-------|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$11
 Approx. Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$5,400 |
|-----------------------------|-----------------------|---------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$5,400 |
|-----------------------------|---------|

| | | |
|-----------------------------------|-------------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$5,400 |
|-----------------------------------|-------------------------------|---------|

| | | | |
|-----------------|-----------------|-------------------|----------|
| DEFERRAL | 20.0% Reduction | Adjustment | -\$1,080 |
|-----------------|-----------------|-------------------|----------|

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

Notes:

Deferral offered for expedited settlement.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$4,320 |
|------------------------|---------|

Screening Date 4-Jun-2008

Docket No. 2008-0908-PST-E

PCW

Respondent FOCUS METROPLEX, INC. dba City Star

Policy Revision 2 (September 2002)

Case ID No. 36036

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101559573

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

Adjustment Percentage (Subtotal 2) 0%

>> **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

No adjustment due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 4-Jun-2008 **Docket No.** 2008-0908-PST-E **PCW**
Respondent FOCUS METROPLEX, INC. dba City Star *Policy Revision 2 (September 2002)*
Case ID No. 36036 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101559573
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|---------|-------|----------|-------|----------------------------------|
| | | Major | Moderate | Minor | |
| Actual | | | | | <input type="text" value="10%"/> |
| Potential | | | X | | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------------------------------|
| | | | | | <input type="text" value="0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events **Number of violation days**

| | | |
|--------------------------------|--------------|----------------------|
| <i>mark only one with an x</i> | 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

Good Faith Efforts to Comply

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

Notes

Violation Subtotal

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: FOCUS METROPLEX, INC. dba City Star
Case ID No.: 36036
Reg. Ent. Reference No.: RN101559573
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment | \$500 | 13-May-2008 | 30-Jun-2008 | 0.13 | \$0 | \$4 | \$5 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to properly operate and maintain the Stage II vapor recovery system as specified including installing the adapters. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$5

| | | | | | |
|--|---|---|--------------------------------------|---------------------------------|---------|
| Screening Date 4-Jun-2008 | Docket No. 2008-0908-PST-E | PCW | | | |
| Respondent FOCUS METROPLEX, INC. dba City Star | | <small>Policy Revision 2 (September 2002)</small> | | | |
| Case ID No. 36036 | | <small>PCW Revision June 12, 2008</small> | | | |
| Reg. Ent. Reference No. RN101559573 | | | | | |
| Media [Statute] Petroleum Storage Tank | | | | | |
| Enf. Coordinator Judy Kluge | | | | | |
| Violation Number | 2 | | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(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 gauge probe for the diesel tank was not functioning. | | | | |
| 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"/> | |
| 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 | 22 | Number of violation days | |
| <small>mark only one with an x</small> | daily | <input type="text"/> | <input type="text"/> | Violation Base Penalty | |
| | monthly | x | <input type="text"/> | | \$2,500 |
| | quarterly | <input type="text"/> | <input type="text"/> | | |
| | semiannual | <input type="text"/> | <input type="text"/> | | |
| | annual | <input type="text"/> | <input type="text"/> | | |
| single event | <input type="text"/> | <input type="text"/> | | | |
| One monthly event is recommended based on documentation of the violation during the May 13, 2008 investigation to the June 4, 2008 screening date. | | | | | |
| Good Faith Efforts to Comply | | 10.0% Reduction | | \$250 | |
| | | Before NOV | NOV to EDRP/Settlement Offer | | |
| Extraordinary | <input type="text"/> | <input type="text"/> | <input type="text"/> | | |
| Ordinary | <input type="text"/> | x | <input type="text"/> | | |
| N/A | <input type="text"/> | (mark with x) | | | |
| Notes | The Respondent came into compliance on June 5, 2008. | | | | |
| Violation Subtotal | | | | \$2,250 | |
| Economic Benefit (EB) for this violation | | Statutory Limit Test | | | |
| Estimated EB Amount | | \$2 | Violation Final Penalty Total | | |
| | | | \$2,250 | | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | \$2,250 | |

Economic Benefit Worksheet

Respondent: FOCUS METROPLEX, INC. dba City Star

Case ID No.: 36036

Reg. Ent. Reference No.: RN101559573

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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|------------|------|-----|-----|-----|
| Equipment | \$500 | 13-May-2008 | 5-Jun-2008 | 0.06 | \$0 | \$2 | \$2 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

The estimated cost of repairing the diesel probe for the tank gauging system. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$2

| | | |
|---|--|---|
| Screening Date 4-Jun-2008 | Docket No. 2008-0908-PST-E | PCW |
| Respondent FOCUS METROPLEX, INC. dba City Star | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. 36036 | | <i>PCW Revision June 12, 2008</i> |
| Reg. Ent. Reference No. RN101559573 | | |
| Media [Statute] Petroleum Storage Tank | | |
| Enf. Coordinator Judy Kluge | | |
| Violation Number | <input type="text" value="3"/> | |
| Rule Cite(s) | <input type="text" value="30 Tex. Admin. Code § 334.49(a)(2) and Tex. Water Code § 26.3475(d)"/> | |
| Violation Description | <input type="text" value="Failed to ensure that a cathodic protection system is designed, installed, operated, and maintained in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system."/> | |
| Base Penalty | | <input type="text" value="\$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" value="x"/> | <input type="text"/> | <input type="text"/> |
| | | | | Percent <input type="text" value="25%"/> |
| >> Programmatic Matrix | | | | |
| Falsification | | | | |
| Major | | | | |
| Moderate | | | | |
| Minor | | | | |
| | | | | Percent <input type="text" value="0%"/> |
| Matrix Notes | <input type="text" value="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 | | | | <input type="text" value="\$7,500"/> |
| | | | | <input type="text" value="\$2,500"/> |

| | | | | |
|---|--------------------------------|---------------------------------|---------------------------------|--|
| Violation Events | | | | |
| Number of Violation Events | <input type="text" value="1"/> | Number of violation days | <input type="text" value="22"/> | |
| <i>mark only one with an x</i> | daily | <input type="text"/> | | Violation Base Penalty <input type="text" value="\$2,500"/> |
| | monthly | <input type="text" value="x"/> | | |
| | quarterly | <input type="text"/> | | |
| | semiannual | <input type="text"/> | | |
| | annual | <input type="text"/> | | |
| | single event | <input type="text"/> | | |
| <input type="text" value="One monthly event is recommended based on documentation of the violation during the May 13, 2008 investigation to the June 4, 2008 screening date."/> | | | | |

| | | | |
|-------------------------------------|--|---|--------------------------------------|
| Good Faith Efforts to Comply | | 10.0% Reduction | \$250 |
| | | <small>Before NOV NOV to EDRP/Settlement Offer</small> | |
| Extraordinary | <input type="text"/> | <input type="text"/> | |
| Ordinary | <input type="text"/> | <input type="text" value="x"/> | |
| N/A | <input type="text"/> | <small>(mark with x)</small> | |
| Notes | <input type="text" value="The Respondent came into compliance on June 30, 2008."/> | | |
| Violation Subtotal | | | <input type="text" value="\$2,250"/> |

| | | | |
|--|----------------------------------|--------------------------------------|--------------------------------------|
| Economic Benefit (EB) for this violation | | Statutory Limit Test | |
| Estimated EB Amount | <input type="text" value="\$5"/> | Violation Final Penalty Total | <input type="text" value="\$2,250"/> |
| This violation Final Assessed Penalty (adjusted for limits) | | <input type="text" value="\$2,250"/> | |

Economic Benefit Worksheet

Respondent FOCUS METROPLEX, INC. dba City Star
Case ID No. 36036
Reg. Ent. Reference No. RN101559573
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 | Overtime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|----------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|----------------|-----------|

No commas or \$

Delayed Costs

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Overtime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|----------------|-----------|
| Equipment | \$500 | 13-May-2008 | 30-Jun-2008 | 0.13 | \$0 | \$4 | \$5 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated cost to maintain the cathodic protection system to include all underground metal components of the UST system. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Overtime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|----------------|-----------|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$5

Compliance History

| | | | |
|---|--|---|-------------------|
| Customer/Respondent/Owner-Operator: | CN600824957 FOCUS METROPLEX, INC. | Classification: AVERAGE | Rating: 0.33 |
| Regulated Entity: | RN101559573 CITY STAR | Classification: AVERAGE | Site Rating: 0.33 |
| ID Number(s): | PETROLEUM STORAGE TANK REGISTRATION | | 17926 |
| Location: | 5200 RUFÉ SNOW DR, NORTH RICHLAND HILLS, TX, 76180 | Rating Date: 9/1/2007 Repeat Violator: NO | |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | |
| Date Compliance History Prepared: | June 02, 2008 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | June 02, 2003 to June 02, 2008 | | |

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

Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 05/29/2008 (670928)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FOCUS METROPLEX, INC. DBA
CITY STAR
RN101559573

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-0908-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 FOCUS METROPLEX, INC. dba City Star ("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 5200 Rufe Snow Drive in North Richland Hills, Tarrant 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 June 3, 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 Five Thousand Four Hundred Dollars (\$5,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Twenty Dollars (\$120) of the administrative penalty and One Thousand Eighty Dollars (\$1,080) 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 Four Thousand Two Hundred Dollars (\$4,200) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Twenty Dollars (\$120) 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 as of June 30, 2008, the USTs have been equipped with product and Stage I vapor adaptors;
 - b. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that on June 5, 2008, the Respondent repaired the automatic tank gauge probe for the diesel tank; and
 - c. The TCEQ Dallas/Fort Worth Regional Office received documentation verifying that as of June 30, 2008, corrosion protection has been installed on all components of the underground UST system.
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.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. This is essential for ensuring the integrity of the financial statements and for providing a clear audit trail. The records should be kept up-to-date and should be accessible to all relevant parties.

2. The second part of the document outlines the procedures for handling discrepancies. It is important to identify any errors as soon as possible and to investigate the cause of the discrepancy. Once the cause has been identified, the necessary steps should be taken to correct the error and to prevent it from recurring.

3. The third part of the document discusses the role of the auditor. The auditor's primary responsibility is to provide an independent and objective assessment of the financial statements. This requires a thorough understanding of the company's accounting policies and procedures, as well as a high level of professional skepticism.

4. The fourth part of the document outlines the requirements for the auditor's report. The report should provide a clear and concise summary of the auditor's findings and should be signed and dated by the auditor. It should also include a statement of the auditor's independence and a description of the scope of the audit.

5. The fifth part of the document discusses the importance of communication between the auditor and the company. The auditor should maintain an open and honest dialogue with the company throughout the audit process. This will help to ensure that the auditor has a full understanding of the company's operations and that any issues are resolved promptly.

6. The sixth part of the document outlines the requirements for the company's internal controls. These controls should be designed to prevent and detect errors and fraud, and to ensure the accuracy and reliability of the financial statements. The company should regularly review and update its internal controls to reflect changes in its operations and the regulatory environment.

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 maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, including, but not limited to 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 May 13, 2008. Specifically, the USTs were not equipped with product and Stage I vapor adaptors which prevent loosening and over-tightening.
2. 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 May 13, 2008. Specifically, the automatic tank gauge probe for the diesel tank was not functioning.
3. Failed to ensure that a cathodic protection system is designed, installed, operated, and maintained in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on May 13, 2008.

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: FOCUS METROPLEX, INC. dba City Star, Docket No. 2008-0908-PST-E" to:

Faint header text at the top of the page, possibly containing a title or reference number.

First main paragraph of text, containing several lines of faint, illegible characters.

Second main paragraph of text, continuing the faint, illegible content.

Third main paragraph of text, appearing as a block of faint, illegible characters.

Fourth main paragraph of text, consisting of faint, illegible lines.

Fifth main paragraph of text, located at the bottom of the page, appearing as faint, illegible characters.

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. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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 S. Miller
For the Executive Director

11/3/2008
Date

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

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

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

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

Karim Kalyan
Signature

09-12-08
Date

KARIM KALYAN
Name (Printed or typed)
Authorized Representative of
FOCUS METROPLEX, INC. dba City Star

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.

