EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1244-PST-E **TCEQ ID:** RN100528553 **CASE NO.:** 36228

RESPONDENT NAME: Texas Stop N Shine, Inc.

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

SITE WHERE VIOLATION(S) OCCURRED: Texas Stop N Shine, 1400 East Campbell Road, Richardson, Dallas County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: __X__ **Yes** ____ **No**

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 15, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Steven Lopez, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-1896; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Ms. Sarah Choe, Director, Texas Stop N Shine, Inc., 3010 Lyndon B. Johnson Freeway, Suite 1405, Dallas, Texas 75234

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint X Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** May 29, 2008 **Date of NOV/NOE Relating to this Case:** July 1, 2008 (NOE) **Background Facts:** This was a routine investigation. **WASTE** 1) Failure to monitor underground storage tanks ("USTs") for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)]. 2) Failure to provide proper release detection for the pressurized piping associated with the USTs. 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)]. 3) Failure to equip each separate pressurized line with an automatic line leak detector. Specifically, the regular unleaded gasoline product line did not have an automatic line leak detector installed [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i) and TEX. WATER CODE § 26.3475(a)]. 4) Failure to ensure that the emergency shutoff valves (also known as shear or impact valves) were securely anchored at the base of the dispensers. Specifically, the valves underneath dispenser nos. 3 and 4, and 5 and 6, were not secured [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)]. 5) Failure to maintain Stage II records at the Station and make them immediately	**Total Assessed:** $8,955 **Total Deferred:** $1,791 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $597 (remaining $6,567 due in 11 monthly payments of $597 each) **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** __ **Average** __ **Poor** **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station: a. Installed an automatic tank gauge system to monitor for releases on June 3, 2008; b. Conducted annual product piping tightness testing on May 29, 2008 with passing results; c. Installed a line leak detector on the regular unleaded gasoline product line on June 2, 2008; d. Securely anchored the shear valves on June 2, 2008; e. Began maintaining all Stage II records at the Station on July 11, 2008; f. Submitted certification that the Station representative received the required Stage II training on June 17, 2008; g. Conducted the required annual and triennial testing of the Stage II equipment on June 17, 2008 with passing results; and h. Checked the vapor leak sources underneath dispenser nos. 3 and 4, made appropriate repairs, and stopped the leak on June 17, 2008.

available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 6) Failure to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 7) Failure to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 8) Failure to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system. Specifically, there was a gasoline vapor leak at dispenser nos. 3 and 4 [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].		

Additional ID No(s).: 26236

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision June 12, 2008*

TCEQ

DATES					
Assigned	7-Jul-2008				
PCW	5-Aug-2008	Screening	11-Jul-2008	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Stop N Shine, Inc.		
Reg. Ent. Ref. No.	RN100528553		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36228	No. of Violations	6
Docket No.	2008-1244-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Steven Lopez
		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*	$9,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	2.0% Enhancement	*Subtotals 2, 3, & 7*	$180
Notes	Enhancement for one NOV with dissimilar violations.		
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*	$2,100
Economic Benefit	0.0% Enhancement*	*Subtotal 6*	$0
Total EB Amounts	$1,882	**Capped at the Total EB $ Amount*	
Approx. Cost of Compliance	$5,348		
SUM OF SUBTOTALS 1-7		*Final Subtotal*	$7,080
OTHER FACTORS AS JUSTICE MAY REQUIRE	26.5%	*Adjustment*	$1,875
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 5.		
		Final Penalty Amount	$8,955
STATUTORY LIMIT ADJUSTMENT		*Final Assessed Penalty*	$8,955
DEFERRAL	20.0% Reduction	*Adjustment*	-$1,791
Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			$7,164

Screening Date 11-Jul-2008 **Docket No.** 2008-1244-PST-E **PCW**

Respondent Texas Stop N Shine, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36228

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100528553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

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

Screening Date 11-Jul-2008 **Docket No.** 2008-1244-PST-E **PCW**

Respondent Texas Stop N Shine, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36228

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100528553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 1

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

Violation Description Failed to monitor USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). 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 equip each separate pressurized line with an automatic line leak detector. Specifically, the regular unleaded gasoline product line did not have an automatic line leak detector installed.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1 — 5 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended from the investigation date of May 29, 2008 to the compliance date of June 3, 2008.

Good Faith Efforts to Comply

25.0% Reduction $625

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

Notes: The Respondent came into compliance on June 3, 2008, prior to the NOE dated July 1, 2008.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $1,098

Statutory Limit Test

Violation Final Penalty Total $2,435

This violation Final Assessed Penalty (adjusted for limits) $2,435

Economic Benefit Worksheet

Respondent Texas Stop N Shine, Inc.
Case ID No. 36228
Reg. Ent. Reference No. RN100528553
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$1,000	29-May-2008	2-Jun-2008	0.01	$0	$1	$1
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)	$1,500	29-May-2008	3-Jun-2008	0.01	$1	n/a	$1

Notes for DELAYED costs: Estimated cost to install a line leak detector. Date Required is the date of investigation. Final Date is the date of compliance. Estimated cost to provide release detection for the USTs to include volume measurement and reconciliation of inventory control records. Date Required is the date of investigation. 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]	$1,000	29-May-2007	29-May-2008	1.92	$96	$1,000	$1,096
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs: Estimated cost to conduct annual piping tightness and line leak detector tests. Date Required is one year prior to the investigation. Final Date is the date of compliance.

Approx. Cost of Compliance $3,500

TOTAL $1,098

Screening Date 11-Jul-2008 **Docket No.** 2008-1244-PST-E **PCW**

Respondent Texas Stop N Shine, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36228

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100528553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.45(c)(3)(A)

Violation Description Failed to ensure that the emergency shutoff valves (also known as a shear or impact valves) were securely anchored at the base of the dispensers. Specifically, the valves underneath dispenser nos. 3 and 4, and 5 and 6, were not secured.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

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 | 4 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the investigation date of May 29, 2008 to the compliance date of June 2, 2008.

Good Faith Efforts to Comply

25.0% Reduction $250

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

Notes: The Respondent came into compliance on June 2, 2008, prior to the NOE dated July 1, 2008.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $974

This violation Final Assessed Penalty (adjusted for limits) $974

Economic Benefit Worksheet

Respondent Texas Stop N Shine, Inc.
Case ID No. 36228
Reg. Ent. Reference No. RN100528553
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
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)	$100	29-May-2008	2-Jun-2008	0.01	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to properly secure emergency shutoff valves at the Station. Date Required is the date of investigation. 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 $100

TOTAL $0

Screening Date 11-Jul-2008 **Docket No.** 2008-1244-PST-E **PCW**

Respondent Texas Stop N Shine, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36228

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100528553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 43 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction — $100

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

Notes: The Respondent came into compliance on July 11, 2008.

Violation Subtotal $900

Economic Benefit (EB) for this violation

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $1,164

This violation Final Assessed Penalty (adjusted for limits) $1,164

Economic Benefit Worksheet

Respondent Texas Stop N Shine, Inc.
Case ID No. 36228
Reg. Ent. Reference No. RN100528553
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
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	$500	29-May-2008	11-Jul-2008	0.12	$3	n/a	$3
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 Stage II records at the Station. Date Required is the date of investigation. 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: $3

Screening Date 11-Jul-2008 **Docket No.** 2008-1244-PST-E **PCW**

Respondent Texas Stop N Shine, Inc. *Policy Revision 2 (September 2002)*

Case ID No. 36228 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN100528553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

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 — 19 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the investigation date of May 29, 2008 to the compliance date of June 17, 2008.

Good Faith Efforts to Comply

25.0% Reduction $250

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

Notes: The Respondent came into compliance on June 17, 2008, prior to the NOE dated July 1, 2008.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $974

This violation Final Assessed Penalty (adjusted for limits) $974

Economic Benefit Worksheet

Respondent Texas Stop N Shine, Inc.
Case ID No. 36228
Reg. Ent. Reference No. RN100528553
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
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	$500	29-May-2008	17-Jun-2008	0.05	$1	n/a	$1
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 of training a Stage II Station representative. Date Required is the investigation date. 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: $1

Screening Date 11-Jul-2008 **Docket No.** 2008-1244-PST-E **PCW**

Respondent Texas Stop N Shine, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36228

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100528553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 5

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

Violation Description Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events: 1 — 1095 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended for the three-year period preceding the May 29, 2008 investigation.

Good Faith Efforts to Comply

25.0% Reduction — $625

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

Notes: The Respondent came into compliance on June 17, 2008, prior to the NOE dated July 1, 2008.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $779

Statutory Limit Test

Violation Final Penalty Total $2,435

This violation Final Assessed Penalty (adjusted for limits) $2,435

Economic Benefit Worksheet

Respondent Texas Stop N Shine, Inc.
Case ID No. 36228
Reg. Ent. Reference No. RN100528553
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
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							
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]	$650	29-May-2005	17-Jun-2008	3.97	$129	$650	$779
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Actual avoided cost for annual and triennial testing of the Stage II equipment. Date Required is three years prior to the investigation date. Final Date is the compliance date.						

Approx. Cost of Compliance $650

TOTAL $779

Screening Date 11-Jul-2008 **Docket No.** 2008-1244-PST-E **PCW**

Respondent Texas Stop N Shine, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36228

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100528553

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system. Specifically, a gasoline vapor leak was detected by sound and smell underneath dispenser nos. 3 and 4.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 19 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the investigation date of May 29, 2008 to the compliance date of June 17, 2008.

Good Faith Efforts to Comply

25.0% Reduction — $250

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

Notes: The Respondent came into compliance on June 17, 2008, prior to the NOE dated July 1, 2008.

Violation Subtotal $750

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $974

This violation Final Assessed Penalty (adjusted for limits) $974

Economic Benefit Worksheet

Respondent Texas Stop N Shine, Inc.
Case ID No. 36228
Reg. Ent. Reference No. RN100528553
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)	$98	29-May-2008	17-Jun-2008	0.05	$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: Actual cost to repair the gasoline vapor leak underneath dispenser nos. 3 and 4. Date Required is the investigation date. 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 $98

TOTAL $0

Compliance History

Customer/Respondent/Owner-Operator:	CN603376328	Texas Stop N Shine, Inc.	Classification:	Rating:
Regulated Entity:	RN100528553	Texas Stop N Shine	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	26236	
Location:	1400 E CAMPBELL RD, RICHARDSON, TX, 75081	Rating Date: 9/1/2007	Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	July 31, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 31, 2003 to July 31, 2008			

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

Name: Steven Lopez Phone: 512-239-1896

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? Yes
3. If Yes, who is the current owner? Texas Stop N Shine, Inc
4. if Yes, who was/were the prior owner(s)? Plaza Service Center, Inc.
5. When did the change(s) in ownership occur? 04/01/2008

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 10/20/2003 (280168)
2 01/13/2005 (292432)
3 07/01/2008 (681783)

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

Date: 10/20/2003 (280168)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to provide acceptable financial assurance.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
TEXAS STOP N SHINE, INC.	§	
RN100528553	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-1244-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 Texas Stop N Shine, Inc. ("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 1400 East Campbell Road in Richardson, Dallas 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 July 6, 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 Eight Thousand Nine Hundred Fifty-Five Dollars ($8,955) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Ninety-Seven Dollars ($597) of the

administrative penalty and One Thousand Seven Hundred Ninety-One Dollars ($1,791) 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 Six Thousand Five Hundred Sixty-Seven Dollars ($6,567) of the administrative penalty shall be payable in 11 monthly payments of Five Hundred Ninety-Seven Dollars ($597) 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. Installed an automatic tank gauge system to monitor for releases on June 3, 2008;

   b. Conducted annual product piping tightness testing on May 29, 2008 with passing results;

   c. Installed a line leak detector on the regular unleaded gasoline product line on June 2, 2008;

   d. Securely anchored the shear valves on June 2, 2008;

   e. Began maintaining all Stage II records at the Station on July 11, 2008;

   f. Submitted certification that the Station representative received the required Stage II training on June 17, 2008;

   g. Conducted the required annual and triennial testing of the Stage II equipment on June 17, 2008 with passing results; and

   h. Checked the vapor leak sources underneath dispenser nos. 3 and 4, made appropriate repairs, and stopped the leak on June 17, 2008.

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 monitor USTs for releases at a frequency of at least once per 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 29, 2008.

2. Failed to provide proper release detection for the pressurized piping associated with the USTs, 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 May 29, 2008. Specifically, the Respondent did not conduct the annual piping tightness test.

3. Failed to equip each separate pressurized line with an automatic line leak detector, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on May 29, 2008. Specifically, the regular unleaded gasoline product line did not have an automatic line leak detector installed.

4. Failed to ensure that the emergency shutoff valves (also known as a shear or impact valves) were securely anchored at the base of the dispensers, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an investigation conducted on May 29, 2008. Specifically, the valves underneath dispenser nos. 3 and 4, and 5 and 6, were not secured.

5. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during an investigation conducted on May 29, 2008.

6. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 29, 2008.

7. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented

during an investigation conducted on May 29, 2008. Specifically, the Stage II annual and triennial compliance testing had not been conducted.

8. Failed to maintain the Stage II vapor recovery system in proper operating condition and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 29, 2008. Specifically, there was a gasoline vapor leak at dispenser nos. 3 and 4.

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: Texas Stop N Shine, Inc., Docket No. 2008-1244-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. 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. 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.

4. 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.

5. 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

_____ _____
For the Executive Director Date 11/14/2008

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.

_____ _____
Signature Date 10/8/2008

Sarah Chue _____
Name (Printed or typed) Title
Authorized Representative of
Texas Stop N Shine, Inc.

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.