

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0786-PST-E TCEQ ID: RN102891850 CASE NO.: 37695
RESPONDENT NAME: HPT TA Properties Trust dba Terrell TravelCenter

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: Terrell TravelCenter, 1700 Wilson Road, Terrell, Kaufman County</p> <p>TYPE OF OPERATION: Travel center with retail sales of gasoline and diesel fuel</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received April 24, 2009, alleging that a water vault belonging to the City of Terrell and adjacent to the travel center was observed to have free standing diesel. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 5, 2009. 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; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. David Plummer, Environmental Manager, HPT TA Properties Trust, 24601 Center Ridge Road, Westlake, Ohio 44145-5634 Mr. John G. Murray, President, HPT TA Properties Trust, 24601 Center Ridge Road, Westlake, Ohio 44145-5634 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: April 24, 2009</p> <p>Date of Investigation Relating to this Case: April 28, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 19, 2009 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WASTE</p> <p>1) Failure to prevent an unauthorized discharge of a regulated substance into water in the state. Specifically, a diesel leak detector flange had leaked diesel fuel and it was observed during the investigation that a City of Terrell water vault had diesel floating on top of the water in addition to soil staining observed in the nearby storm drain ditch [TEX. WATER CODE § 26.121 and 30 TEX. ADMIN. CODE § 334.48(a)].</p> <p>2) Failure to provide corrosion protection to all underground components of an underground storage tank ("UST") system which is used to convey or contain regulated substances. Specifically, the diesel and gasoline submersible pumps were not electrically isolated from the corrosive elements of the surrounding soil, backfill, and groundwater [30 TEX. ADMIN. CODE § 334.49(a)(4) and TEX. WATER CODE § 26.3475(d)].</p> <p>3) 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 was not being put into test mode monthly for the used oil UST [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p>	<p>Total Assessed: \$22,598</p> <p>Total Deferred: \$4,519 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$18,079</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On April 28, 2009, mitigated the impacted water vault, conducted soil sampling, and properly disposed of the contaminated soil;</p> <p>b. Submitted documentation verifying that as of June 9, 2009, all components of the cathodic protection system are functioning properly including the diesel and gasoline submersible pumps;</p> <p>c. Submitted passing test results from the automatic tank gauge system verifying that the Facility is conducting monthly tank tests for the used oil UST on June 22, 2009;</p> <p>d. Conducted the annual gasoline piping tightness and line leak detector test on May 12, 2009 with passing results;</p> <p>e. Replaced the diesel spill buckets for tanks nos. 3 and 6 and implemented procedures to ensure the spill and overflow devices are inspected on April 30, 2009;</p> <p>f. Installed safety hold open arms on the shear valves on April 29, 2009; and</p> <p>g. Installed all missing drop tubes on May 7, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin conducting proper inventory control procedures for all USTs at the Facility, to include the new oil UST; and</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>4) Failure to provide release detection for the piping associated with the USTs. Specifically, the annual piping tightness tests had not been conducted for the gasoline piping and the new and used oil piping [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>5) Failure to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the gasoline 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>6) Failure to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel. Specifically, inventory control procedures were not being conducted for the new oil UST [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>7) Failure to ensure that all spill and overfill prevention devices are maintained in good operating condition and that such devices are inspected and serviced in accordance with manufacturers' specifications. Specifically, the diesel spill buckets for tank nos. 3 and 6 were full of water because the lids were not liquid tight [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>8) Failure to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves under master dispenser nos. 1 and 9 were observed to have a wrench maintaining the fusible link in a constant open position [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>9) Failure to equip all fill pipes in a new UST system with a removable or permanent factory-constructed drop tube which shall extend to within 12 inches of the tank bottom. Specifically, drop tubes were missing from diesel fill risers for UST nos. 2 through 6 and the regular and super unleaded gasoline fill risers [30 TEX. ADMIN. CODE § 334.45(e)(2)(D)].</p>		<p>to demonstrate compliance with Ordering Provision a.</p>
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

TCEQ	DATES	Assigned	26-May-2009		
	PCW	2-Jun-2009	Screening	27-May-2009	EPA Due

RESPONDENT/FACILITY INFORMATION:			
Respondent	HPT TA Properties Trust dba Terrell TravelCenter.		
Reg. Ent. Ref. No.	RN102891850		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37695	No. of Violations	6
Docket No.	2009-0786-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)	<i>Subtotal 1</i>		\$25,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>			
Compliance History	0.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$0
Notes	No adjustment due to compliance history.		
Culpability	No	0.0% Enhancement	<i>Subtotal 4</i> \$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		<i>Subtotal 5</i>	\$3,500
Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
<small>Total EB Amounts</small>	<small>\$1,126</small>	<small>*Capped at the Total EB \$ Amount</small>	
<small>Approx. Cost of Compliance</small>	<small>\$10,822</small>		
SUM OF SUBTOTALS 1-7		<i>Final Subtotal</i>	\$21,500
OTHER FACTORS AS JUSTICE MAY REQUIRE	5.1%	<i>Adjustment</i>	\$1,098
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 3.		
		<i>Final Penalty Amount</i>	\$22,598
STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i>	\$22,598
DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$4,519
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$18,079

Screening Date 27-May-2009

Docket No. 2009-0786-PST-E

PCW

Respondent HPT TA Properties Trust dba Terrell TravelCenter

Policy Revision 2 (September 2002)

Case ID No. 37695

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102891850

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

Screening Date 27-May-2009	Docket No. 2009-0786-PST-E	PCW	
Respondent HPT TA Properties Trust dba Terrell TravelCenter	<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37895	<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN102891850			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Judy Kluge			
Violation Number 1			
Rule Cite(s)	Tex. Water Code § 26.121 and 30 Tex. Admin. Code § 334.48(a)		
Violation Description	Failed to prevent an unauthorized discharge of a regulated substance into water in the state. Specifically, a diesel leak detector flange had leaked diesel fuel and it was observed during the investigation that a City of Terrell water vault had diesel floating on top of the water in addition to soil staining observed in the nearby storm drain ditch.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Release Actual	<input type="checkbox"/>	x	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Percent			50%
>> Programmatic Matrix			
Falsification			
Major	Moderate	Minor	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Percent			0%
Matrix Notes	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
Adjustment		\$5,000	
		\$5,000	
Violation Events			
Number of Violation Events <input type="text" value="1"/>		Number of violation days <input type="text" value="1"/>	
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	x	
Violation Base Penalty			\$5,000
One single event is recommended based on documentation of the violation during the April 28, 2009 investigation.			
Good Faith Efforts to Comply		25.0% Reduction	\$1,250
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>		
Ordinary	x		
N/A	<input type="checkbox"/>	(mark with x)	
Notes	The Respondent came into compliance on April 28, 2009.		
Violation Subtotal		\$3,750	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount <input type="text" value="\$0"/>		Violation Final Penalty Total <input type="text" value="\$3,942"/>	
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,942"/>	

Economic Benefit Worksheet

Respondent HPT TA Properties Trust dba Terrell TravelCenter
Case ID No. 37695
Reg. Ent. Reference No. RN102891850
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

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)	\$5,000	28-Apr-2009	28-Apr-2009	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the diesel leak detector flange and to remediate the impact to the environment. The date required is the date the Incident was confirmed 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

\$5,000

TOTAL

\$0

Screening Date 27-May-2009	Docket No. 2009-0786-PST-E	PCW			
Respondent HPT TA Properties Trust dba Terrell TravelCenter		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37695		<small>PCW Revision October 30, 2009</small>			
Reg. Ent. Reference No. RN102891850					
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 components of an underground storage tank ("UST") system which is used to convey or contain regulated substances. Specifically, the diesel and gasoline submersible pumps were not electrically isolated from the corrosive elements of the surrounding soil, backfill, and groundwater.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm			Percent	50%
	Release	Major	Moderate		
	Actual				
	Potential	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					\$5,000
					\$5,000
Violation Events					
Number of Violation Events		1	Number of violation days		29
<small>mark only one with an x</small>	daily				
	weekly				
	monthly	x			
	quarterly				
	semiannual				
	annual				
single event					
Violation Base Penalty					\$5,000
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> One monthly event is recommended based on documentation of the violation during the April 28, 2009 investigation to the May 27, 2009 screening date. </div>					
Good Faith Efforts to Comply					
		10.0% Reduction			\$500
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>		
Extraordinary					
Ordinary			x		
N/A			(mark with x)		
Notes	The Respondent came into compliance on June 9, 2009, after the NOE dated May 19, 2009.				
Violation Subtotal					\$4,500
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		\$3	Violation Final Penalty Total		\$4,730
This violation Final Assessed Penalty (adjusted for limits)					\$4,730

Economic Benefit Worksheet

Respondent HPT TA Properties Trust dba Terrell Travel Center
Case ID No. 37695
Reg. Ent. Reference No. RN102891850
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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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)	\$500	28-Apr-2009	9-Jun-2009	0.12	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to provide cathodic protection to 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)

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 27-May-2009	Docket No. 2009-0786-PST-E	PCW		
Respondent HPT TA Properties Trust dba Terrell Travel Center		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37695		<small>PCW Revision October 30, 2009</small>		
Reg. Ent. Reference No. RN102891850				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	3			
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) and (c)(1)			
Violation Description	<p>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 was not being put into test mode monthly for the used oil UST. Failed to provide release detection for the piping associated with the USTs. Specifically, the annual piping tightness tests had not been conducted for the gasoline piping and the new and used oil piping. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the gasoline line leak detectors had not been performance tested annually.</p>			
Base Penalty	\$10,000			
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential	x		
		Percent		50%
>> 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			\$5,000	
Violation Events			\$5,000	
	Number of Violation Events	1	29	Number of violation days
	mark only one with an x	daily		
		weekly		
		monthly	x	
		quarterly		
		semiannual		
		annual		
		single event		
		Violation Base Penalty		\$5,000
One monthly event is recommended based on documentation of the violation during the April 28, 2009 investigation to the May 27, 2009 screening date.				
Good Faith Efforts to Comply		10.0% Reduction	\$500	
		Before NOV	NOV to EDPRP/Settlement Offer	
	Extraordinary			
	Ordinary		x	
	N/A		(mark with x)	
Notes	The Respondent came into compliance on June 22, 2009, after the NOE dated May 19, 2009.			
Violation Subtotal			\$4,500	
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount	\$1,102	Violation Final Penalty Total	\$4,730
This violation Final Assessed Penalty (adjusted for limits)			\$4,730	

Economic Benefit Worksheet

Respondent HPT TA Properties Trust dba Terrell TravelCenter
Case ID No. 37695
Reg. Ent. Reference No. RN102891850
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
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)	\$500	28-Apr-2009	22-Jun-2009	0.15	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to implement release detection for the used oil UST. 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]	\$1,000	28-Apr-2008	12-May-2009	1.96	\$98	\$1,000	\$1,098
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for piping tightness and line leak detector tests. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$1,500

TOTAL

\$1,102

Screening Date 27-May-2009		Docket No. 2009-0786-PST-E		PCW	
Respondent HPT TA Properties Trust dba Terrell TravelCenter				<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37695				<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN302891850					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Judy Kluge					
Violation Number		<input type="text" value="4"/>			
Rule Cite(s)		<input type="text" value="30 Tex. Admin. Code § 334.48(c)"/>			
Violation Description		<input type="text" value="Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel. Specifically, inventory control procedures were not being conducted for the new oil UST."/>			
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="50%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				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="\$5,000"/>	
				<input type="text" value="\$5,000"/>	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="29"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	<input type="text"/>		
	weekly	<input type="text"/>	<input type="text"/>		
	monthly	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>	<input type="checkbox"/>		
	annual	<input type="checkbox"/>	<input type="checkbox"/>		
	single event	<input type="checkbox"/>	<input type="checkbox"/>		
				Violation Base Penalty <input type="text" value="\$5,000"/>	
<input type="text" value="One monthly event is recommended based on documentation of the violation during the April 28, 2009 investigation to the May 27, 2009 screening date."/>					
Good Faith Efforts to Comply		0.0% Reduction		<input type="text" value="\$0"/>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary		<input type="text"/>	<input type="text"/>		
Ordinary		<input type="text"/>	<input type="text"/>		
N/A		<input checked="" type="checkbox"/>	(mark with x)		
Notes		<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>			
Violation Subtotal				<input type="text" value="\$5,000"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<input type="text" value="\$17"/>	Violation Final Penalty Total		<input type="text" value="\$5,255"/>
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$5,255"/>	

Economic Benefit Worksheet

Respondent: HPT TA Properties Trust dba Terrell TravelCenter
Case ID No.: 37695
Reg. Ent. Reference No.: RN102891850
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				0.00	\$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	28-Apr-2009	29-Dec-2009	0.67	\$17	n/a	\$17
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 conduct inventory control procedures including daily inventory volume measurement and monthly reconciliation for all USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation 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				0.00	\$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 \$17

Screening Date: 27-May-2009		Docket No.: 2009-0786-PST-E		PCW
Respondent: HPT TA Properties Trust dba Terrell TravelCenter				<i>Policy Revision 2 (September 2002)</i>
Case ID No.: 37895				<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.: RN102891850				
Media [Statute]: Petroleum Storage Tank				
Enf. Coordinator: Judy Kluge				
Violation Number	5			
Rule Cite(s)	30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)			
Violation Description	Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition and that such devices are inspected and serviced in accordance with manufacturers' specifications. Specifically, the diesel spill buckets for tank nos. 3 and 6 were full of water because the lids were not liquid tight.			
Base Penalty				\$10,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Major	Moderate	Minor	
Release				
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>
Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				Percent <input type="text" value="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				\$7,500
				\$2,500
Violation Events				
Number of Violation Events		<input type="text" value="1"/>	<input type="text" value="2"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
Violation Base Penalty				\$2,500
One quarterly event is recommended based on documentation of the violation during the April 28, 2009 investigation to the April 30, 2009 compliance date.				
Good Faith Efforts to Comply				
		25.0% Reduction		\$625
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>			
Ordinary	<input checked="" type="checkbox"/>			
N/A	<input type="checkbox"/>			
	(mark with x)			
Notes	The Respondent came into compliance on April 30, 2009, prior to the NOE dated May 19, 2009.			
Violation Subtotal				\$1,875
Economic Benefit (EB) for this violation				
Estimated EB Amount		\$0		Violation Final Penalty Total
				\$1,971
This violation Final Assessed Penalty (adjusted for limits)				\$1,971

Economic Benefit Worksheet

Respondent HPT TA Properties Trust dba Terrell TravelCenter
Case ID No. 37695
Reg. Ent. Reference No. RN102891850
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	26-Apr-2009	30-Apr-2009	0.01	\$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

The estimated cost of replacing the spill buckets and maintaining them in good operating condition. The date required is the investigation date and the final date is the compliance date.

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

\$0

Screening Date: 27-May-2009		Docket No.: 2009-0786-PST-E		PCW															
Respondent: HPT TA Properties Trust dba Terrell TravelCenter				<i>Policy Revision 2 (September 2002)</i>															
Case ID No.: 37695				<i>PCW Revision October 30, 2008</i>															
Reg. Ent. Reference No.: RN102891850																			
Media [Statute]: Petroleum Storage Tank																			
Enf. Coordinator: Judy Kluge																			
Violation Number:		<input type="text" value="6"/>																	
Rule Cite(s):		<input type="text" value="30 Tex. Admin. Code § 334.45(c)(3)(A) and (e)(2)(D)"/>																	
Violation Description:		<p>Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves under master dispenser nos. 1 and 9 were observed to have a wrench maintaining the fusible link in a constant open position. Failed to equip all fill pipes in a new UST system with a removable or permanent factory-constructed drop tube which shall extend to within 12 inches of the tank bottom. Specifically, drop tubes were missing from diesel fill risers for UST nos. 2 through 6 and the regular and super unleaded gasoline fill risers.</p>																	
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"/>	<input type="text"/>															
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<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:	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:				<input type="text" value="\$7,500"/>															
Violation Events				<input type="text" value="\$2,500"/>															
<table style="width:100%;"> <tr> <td style="width:40%;">Number of Violation Events</td> <td><input type="text" value="1"/></td> <td style="width:20%;"></td> <td style="width:20%;"><input type="text" value="6"/></td> <td style="width:20%;">Number of violation days</td> </tr> </table>					Number of Violation Events	<input type="text" value="1"/>		<input type="text" value="6"/>	Number of violation days										
Number of Violation Events	<input type="text" value="1"/>		<input type="text" value="6"/>	Number of violation days															
<table style="width:100%;"> <tr> <td rowspan="7" style="vertical-align: middle;"><i>mark only one with an x</i></td> <td style="text-align: center;">daily</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">weekly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">annual</td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: center;">single event</td> <td><input type="text"/></td> </tr> </table>					<i>mark only one with an x</i>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>
<i>mark only one with an x</i>	daily	<input type="text"/>																	
	weekly	<input type="text"/>																	
	monthly	<input type="text"/>																	
	quarterly	<input checked="" type="checkbox"/>																	
	semiannual	<input type="text"/>																	
	annual	<input type="text"/>																	
	single event	<input type="text"/>																	
Violation Base Penalty:				<input type="text" value="\$2,500"/>															
One quarterly event is recommended based on documentation of the violation during the April 28, 2009 investigation to the May 7, 2009 compliance date.																			
Good Faith Efforts to Comply																			
		<input type="text" value="25.0%"/>	Reduction																
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>																
Extraordinary	<input type="text"/>	<input type="text"/>																	
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>																	
N/A	<input type="text"/>	<small>(mark with x)</small>																	
Notes:	The Respondent came into compliance on May 7, 2009, prior to the NOE dated May 19, 2009.																		
Violation Subtotal:				<input type="text" value="\$1,875"/>															
Economic Benefit (EB) for this violation																			
		<input type="text" value="\$5"/>	Statutory Limit Test																
Estimated EB Amount:		<input type="text" value="\$5"/>	Violation Final Penalty Total: <input type="text" value="\$1,971"/>																
This violation Final Assessed Penalty (adjusted for limits):				<input type="text" value="\$1,971"/>															

Economic Benefit Worksheet

Respondent HPT TA Properties Trust dba Terrell TravelCenter
Case ID No. 37695
Reg. Ent. Reference No. RN102891850
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Shear valves	\$50	28-Apr-2009	29-Apr-2009	0.00	\$0	\$0	\$0
Install drop tubes	\$2,772	28-Apr-2009	7-May-2009	0.02	\$0	\$5	\$5
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

Actual cost to install safety hold open arms on the shear valves and install the missing drop tubes. The date required is the investigation date and the final dates are the dates 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

\$2,822	TOTAL	\$5
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Compliance History Report

Customer/Respondent/Owner-Operator: CN603171620 HPT TA Properties Trust Classification: AVERAGE Rating: 3.46
Regulated Entity: RN102891850 Terrell TravelCenter Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 52846
Location: 1700 WILSON RD, TERRELL, TX, 75161
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 27, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 27, 2004 to May 27, 2009
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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? HPT TA Properties Trust
4. If Yes, who was/were the prior owner(s)/operator(s)? Rip Griffin Truck Service Center, LP
5. When did the change(s) in owner or operator occur? 12/30/2005
6. Rating Date: 9/1/2008 Repeat Violator: NO

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 11/27/2006 (531911)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HPT TA PROPERTIES TRUST DBA
TERRELL TRAVELCENTER
RN102891850**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0786-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 HPT TA Properties Trust dba Terrell TravelCenter ("the Respondent") under the authority of 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 travel center with retail sales of gasoline and diesel fuel at 1700 Wilson Road in Terrell, Kaufman County, Texas (the "Facility").
2. The Respondent's eleven underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
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 May 24, 2009.
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 Twenty-Two Thousand Five Hundred Ninety-Eight Dollars (\$22,598) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eighteen Thousand Seventy-Nine Dollars (\$18,079) of the administrative penalty and Four Thousand Five Hundred Nineteen Dollars (\$4,519) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 Facility:
 - a. On April 28, 2009, mitigated the impacted water vault, conducted soil sampling, and properly disposed of the contaminated soil;
 - b. Submitted documentation verifying that as of June 9, 2009, all components of the cathodic protection system are functioning properly including the diesel and gasoline submersible pumps;
 - c. Submitted passing test results from the automatic tank gauge system verifying that the Facility is conducting monthly tank tests for the used oil UST on June 22, 2009;
 - d. Conducted the annual gasoline piping tightness and line leak detector test on May 12, 2009 with passing results;
 - e. Replaced the diesel spill buckets for tanks nos. 3 and 6 and implemented procedures to ensure the spill and overfill devices are inspected on April 30, 2009;
 - f. Installed safety hold open arms on the shear valves on April 29, 2009; and
 - g. Installed all missing drop tubes on May 7, 2009.
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 Facility, the Respondent is alleged to have:

1. Failed to prevent an unauthorized discharge of a regulated substance into water in the state, in violation of TEX. WATER CODE § 26.121 and 30 TEX. ADMIN. CODE § 334.48(a), as documented during an investigation conducted on April 28, 2009. Specifically, a diesel leak detector flange had leaked diesel fuel and it was observed during the investigation that a City of Terrell water vault had diesel floating on top of the water in addition to soil staining observed in the nearby storm drain ditch.
2. Failed to provide corrosion protection to all underground 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 April 28, 2009. Specifically, the diesel and gasoline submersible pumps were not electrically isolated from the corrosive elements of the surrounding soil, backfill, and groundwater.
3. 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 April 28, 2009. Specifically, the automatic tank gauge was not being put into test mode monthly for the used oil UST.
4. Failed to provide release detection for the 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 April 28, 2009. Specifically, the annual piping tightness tests had not been conducted for the gasoline piping and the new and used oil piping.
5. 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 April 28, 2009. Specifically, the gasoline line leak detectors had not been performance tested annually.
6. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on April 28, 2009. Specifically, inventory control procedures were not being conducted for the new oil UST.
7. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition and that such devices are inspected and serviced in accordance with manufacturers' specifications, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on April 28, 2009. Specifically, the diesel spill buckets for tank nos. 3 and 6 were full of water because the lids were not liquid tight.
8. Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an

investigation conducted on April 28, 2009. Specifically, the shear valves under master dispenser nos. 1 and 9 were observed to have a wrench maintaining the fusible link in a constant open position.

9. Failed to equip all fill pipes in a new UST system with a removable or permanent factory-constructed drop tube which shall extend to within 12 inches of the tank bottom, in violation of 30 TEX. ADMIN. CODE § 334.45(e)(2)(D), as documented during an investigation conducted on April 28, 2009. Specifically, drop tubes were missing from diesel fill risers for UST nos. 2 through 6 and the regular and super unleaded gasoline fill risers.

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: HPT TA Properties Trust dba Terrell TravelCenter, Docket No. 2009-0786-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. Immediately upon the effective date of this Agreed Order, begin conducting proper inventory control procedures for all USTs at the Facility, to include the new oil UST, in accordance with 30 TEX. ADMIN. CODE § 334.48.
 - 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 No. 2.a. 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 fines 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 Facility 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 Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

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.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sullivan
For the Executive Director

9/18/09
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

HPT TA Properties Trust

John A. Murray
Signature

9/9/09
Date

John G. Murray

President
Title

Name (Printed or typed)
Authorized Representative of
HPT TA Properties Trust dba Terrell TravelCenter

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attn. Kathy Heibel

