

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0053-PST-E      TCEQ ID: RN102859600      CASE NO.: 37013**

**RESPONDENT NAME: RSE, INC. DBA HANDY STOP**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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

**SITE WHERE VIOLATION(S) OCCURRED:** 701 MacArthur Boulevard, Grand Prairie, Dallas County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:**     Yes     No

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

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

**COMMENTS RECEIVED:** The *Texas Register* comment period expired September 7, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Tom Greimel, Waste Enforcement Section, MC 128, (512) 239-5690

**TCEQ Regional Contact:** Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903

**Respondent:** Mr. Mr. Shamsuddin Badruddin, Director and President, RSE, Inc. dba Handy Stop, 1106 Hillcrest Drive, Euless, Texas 76039-3002

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

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> November 26, 2008</p> <p><b>Date of NOE Relating to this Case:</b> January 6, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed April 27, 2009. A signed Agreed Order was received on July 10, 2009.</p> <p><b>Current Compliance Status:</b> The Respondent achieved compliance on December 4, 2008.</p> <p><b>PST:</b> Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p><b>Initial Calculated Penalty:</b> \$2,945</p> <p><b>Total Assessed:</b> \$2,945</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$245/\$2,700 The Respondent paid \$245 of the administrative penalty. The remaining amount of \$2,700 shall be payable in 27 monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Action Taken:</b> The Executive Director recognizes that RSE currently possesses acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	Assigned	12-Jan-2009	Screening	13-Jan-2009	EPA Due	
	PCW	27-Apr-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	RSE, Inc. dba Handy Stop		
Reg. Ent. Ref. No.	RN102859600		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37013	No. of Violations	1
Docket No.	2009-0053-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Greimel
		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* **\$2,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 4.0% Enhancement *Subtotals 2, 3, & 7* **\$80**

Notes Enhancement for two NOV's without same or similar 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* **\$500**

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

Total EB Amounts \$1,365  
Approx. Cost of Compliance \$1,300  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$1,580**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 86.4% *Adjustment* **\$1,365**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with the violation.

*Final Penalty Amount* **\$2,945**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$2,945**

**DEFERRAL** 0.0% Reduction *Adjustment* **\$0**

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

Notes Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$2,945**

<b>Screening Date</b> 13-Jan-2009	<b>Docket No.</b> 2009-0053-PST-E	<b>PCW</b>
<b>Respondent</b> RSE, Inc. dba Handy Stop		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 37013		<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b> RN102859600		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Thomas Greimel		

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 4%

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

<span style="border: 1px solid black; padding: 2px;">No</span>	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Person Classification (Subtotal 7)**

<span style="border: 1px solid black; padding: 2px;">Average Performer</span>	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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>> **Compliance History Summary**

<b>Compliance History Notes</b>	Enhancement for two NOVs without same or similar violations.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 4%

<b>Screening Date</b> 13-Jan-2009	<b>Docket No.</b> 2009-0053-PST-E	<b>PCW</b>					
<b>Respondent</b> RSE, Inc. dba Handy Stop	<i>Policy Revision 2 (September 2002)</i>						
<b>Case ID No.</b> 37013	<i>PCW Revision October 30, 2008</i>						
<b>Reg. Ent. Reference No.</b> RN102859600							
<b>Media [Statute]</b> Petroleum Storage Tank							
<b>Enf. Coordinator</b> Thomas Greimel							
<b>Violation Number</b> <input type="text" value="1"/>							
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 37.815(a) and (b)						
<b>Violation Description</b>	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs.						
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>					
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>							
OR	<b>Release</b>			<b>Harm</b>			<b>Percent</b>
		Major	Moderate	Minor			
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>			
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>			
<b>&gt;&gt; Programmatic Matrix</b>						<b>Percent</b>	
	Falsification	Major	Moderate	Minor			
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>			
<b>Matrix Notes</b>	100% of the rule requirement was not met.						
<b>Adjustment</b>						<input type="text" value="\$9,000"/>	
<input type="text" value="\$1,000"/>							
<b>Violation Events</b>							
<b>Number of Violation Events</b>		<input type="text" value="2"/>	<input type="text" value="365"/>		<b>Number of violation days</b>		
<i>mark only one with an x</i>	daily	<input type="text"/>					
	weekly	<input type="text"/>					
	monthly	<input type="text"/>					
	quarterly	<input type="text"/>					
	semiannual	<input type="text"/>					
	annual	<input type="text"/>					
	single event	<input checked="" type="checkbox"/>					
Two single events (one event per tank) are recommended.							
<b>Good Faith Efforts to Comply</b>		25.0%	<b>Reduction</b>			<input type="text" value="\$500"/>	
		Before NOV	NOV to EDPRP/Settlement Offer				
Extraordinary	<input type="text"/>						
Ordinary	x						
N/A	<input type="text"/>	(mark with x)					
<b>Notes</b>	The Respondent came into compliance on December 4, 2008.						
<b>Violation Subtotal</b>						<input type="text" value="\$1,500"/>	
<b>Economic Benefit (EB) for this violation</b>				<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>		<input type="text" value="\$1,365"/>		<b>Violation Final Penalty Total</b>		<input type="text" value="\$2,945"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>						<input type="text" value="\$2,945"/>	

### Economic Benefit Worksheet

**Respondent** RSE, Inc. dba Handy Stop  
**Case ID No.** 37013  
**Reg. Ent. Reference No.** RN102859600  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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				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]	\$1,300	26-Nov-2007	4-Dec-2008	1.00	\$65	\$1,300	\$1,365
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for the two petroleum USTs (\$650 per tank). The Date Required is one year prior to the investigation date. The Final date is the compliance date.

Approx. Cost of Compliance

\$1,300

**TOTAL**

\$1,365

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603438219 RSE, Inc. Classification: AVERAGE Rating: 1.67  
Regulated Entity: RN102859600 Handy Stop Classification: AVERAGE Site Rating: 1.67  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 42276  
REGISTRATION  
Location: 701 MACARTHUR BLVD, GRAND PRAIRIE, TX, 75050  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: January 13, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: January 13, 2004 to January 13, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Thomas Greimel Phone: (512) 239-5690

## 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? GP Handy Stop Grocery, Inc.
4. If Yes, who was/were the prior owner(s)? McHargue David and McHargue Paul
5. When did the change(s) in ownership occur? 3/21/2005
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 | 09/09/2004 | (291213) |
| 2 | 06/05/2008 | (654976) |
| 3 | 01/05/2009 | (709468) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- Date: 06/05/2008 (654976)
- Self NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)  
Description: At the time of the investigation, Ms. Christie Green, store manager, stated that daily inspections were not being conducted at this facility. The last noted entry into the log was February 26, 2002.
- Self NO Classification: Minor  
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)  
Description: Failure to have required UST records which are maintained readily accessible and available for inspection upon request by Commission personnel.
- Self NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)  
Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), the U.S. Environmental Protection Agency (EPA), or any local air pollution control program with jurisdiction.
- Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)  
Description: Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system. These instructions shall, at a minimum, include:

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

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)  
 Description: Failure to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by California Air Resources Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component that is a part of the approved system.

Date: 12/15/2008 (709468)

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)  
 Description: Failure to have required UST records which are maintained readily accessible and available for inspection upon request by Commission personnel.

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)  
 Description: Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system. These instructions shall, at a minimum, include:

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

Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)  
 Description: Failure to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by California Air Resources Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component that is a part of the approved system.

Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 334, SubChapter C 334.49(c)(4)(C)  
 Description: Failure to perform an operability test on a cathodic protection system within 3 to 6 months after installation and at a subsequent frequency of at least once every 3 years.

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  
RSE, INC. DBA HANDY STOP;  
RN102859600

§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0053-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding RSE, Inc. dba Handy Stop ("RSE") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and RSE appear before the Commission and together stipulate that:

1. RSE operates a convenience store with retail sales of gasoline located at 701 MacArthur Boulevard, Grand Prairie, Dallas County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and RSE agree that the Commission has jurisdiction to enter this Agreed Order, and that RSE is subject to the Commission's jurisdiction.
4. RSE received notice of the violations alleged in Section II ("Allegations") on or about January 11, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by RSE of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of two thousand nine hundred forty-five dollars (\$2,945.00) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). RSE paid two hundred forty-five dollars (\$245.00) of the administrative penalty. The remaining amount of two thousand seven hundred dollars (\$2,700.00) of the administrative penalty shall be payable in 27 monthly payments of one hundred dollars (\$100.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If RSE fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, RSE's failure to meet the payment schedule of this Agreed Order constitutes the failure by RSE to timely and satisfactorily comply with all of 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 RSE 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 RSE currently possesses acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs.
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 RSE 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

During an investigation conducted on November 26, 2008, a TCEQ Dallas/Fort Worth Regional Office investigator documented that RSE violated 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing to demonstrate acceptable financial assurance for taking

corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs. Specifically, the insurance coverage for the Facility lapsed from August 30, 2008 through December 4, 2008.

### III. DENIALS

RSE generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that RSE pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and RSE'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: RSE, Inc. dba Handy Stop, Docket No. 2009-0053-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 RSE. RSE 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against RSE 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 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.

5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to RSE, or three days after the date on which the Commission mails notice of the Order to RSE, 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



9/2/2009

\_\_\_\_\_  
For the Executive Director

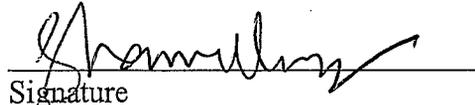
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on RSE's compliance history;
- Greater scrutiny of any permit applications submitted by RSE;
- 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 against RSE;
- Automatic referral to the Attorney General's Office of any future enforcement actions against RSE; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

6/25/09.  
\_\_\_\_\_  
Date

Shamsuddin Badruddin  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized representative of  
RSE, Inc. dba Handy Stop

Director  
\_\_\_\_\_  
Title