

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0947-PST-E TCEQ ID: RN101549715 CASE NO.: 36023
RESPONDENT NAME: SUPERIOR GROCERS, INC

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: Superior Grocers, 5537 Highway 67 East, Alvarado, Johnson County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 2, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Wallace Myers, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6580; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Shoukat Bhayani, President, SUPERIOR GROCERS, INC, 5537 Highway 67 East, Alvarado, Texas 76009 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 18, 2008</p> <p>Date of NOV/NOE Relating to this Case: May 15, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to notify the agency of any change or additional information regarding the underground storage tanks ("USTs") within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>2) Failure to timely renew a UST delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of the ownership change. Specifically, the ownership changed on February 9, 2007 [30 TEX. ADMIN. CODE § 334.8(c)(4)(C) and (c)(5)(B)(ii)].</p> <p>3) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, ten fuel deliveries were accepted without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>4) Failure to maintain the corrosion protection system in a manner that will ensure continuous corrosion protection to all underground metal components of the UST system [30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d)].</p> <p>5) Failure to inspect the impressed current</p>	<p>Total Assessed: \$20,148</p> <p>Total Deferred: \$4,029 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$474 (remaining \$15,645 due in 35 monthly payments of \$447 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent successfully conducted the required annual piping tightness test and tested the line leak detectors for performance and operational reliability on April 21, 2008.</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;</p> <p>i) Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form; and</p> <p>ii) Begin conducting proper inventory control procedures for all USTs.</p> <p>b) Within 30 days after the effective date of this Agreed Order;</p> <p>i) Implement a corrosion protection method for the UST system including the underground metal components and conduct bimonthly inspection and triennial testing of the corrosion protection system;</p> <p>ii) Install and implement a release detection method for all USTs at the Station and begin recording volume measurements and reconciliation of inventory control records; and</p> <p>iii) Install a pressure-vacuum relief valve in each UST vent line.</p> <p>c) 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 to demonstrate compliance with Ordering Provisions a.i. through b.iii.</p>

cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].

6) Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d)].

7) Failure to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].

8) Failure to monitor USTs for releases at a frequency of at least once every 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)].

9) Failure to provide proper release detection for the piping associated with the UST system [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].

10) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 34.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].

11) Failure to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].

12) Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].

13) Failure to ensure that each UST vent line is equipped with a pressure-vacuum relief valve set to open at a pressure of no more than eight ounces per square inch [30 TEX. ADMIN. CODE § 115.222(5) and TEX. HEALTH & SAFETY CODE § 382.085(b)].



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	19-May-2008	Screening	23-May-2008	EPA Due
	PCW	13-Jun-2008			

RESPONDENT/FACILITY INFORMATION	
Respondent	SUPERIOR GROCERS, INC
Reg. Ent. Ref. No.	RN101549715
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36023	No. of Violations	6
Docket No.	2008-0947-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Wallace Myers
Admin. Penalty \$	Limit Minimum \$0	EC's Team	Enforcement Team 6
	Maximum \$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$14,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	20.0% Enhancement	Subtotals 2, 3, & 7	\$2,900
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Notes: Enhancement for one 1660 order.

Culpability	No 0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,938
Approx. Cost of Compliance	\$6,186

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,400
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OTHER FACTORS AS JUSTICE MAY REQUIRE	15.8%	Adjustment	\$2,748
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 3 and 5.

Final Penalty Amount	\$20,148
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$20,148
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DEFERRAL	20.0% Reduction	Adjustment	-\$4,029
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$16,119
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Screening Date 23-May-2008

Docket No. 2008-0947-PST-E

PCW

Respondent SUPERIOR GROCERS, INC

Policy Revision 2 (September 2002)

Case ID No. 36023

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101549715

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

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)	1	20%
	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) 20%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one 1660 order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 23-May-2008	Docket No. 2008-0947-PST-E	PCW		
Respondent SUPERIOR GROCERS, INC	<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36023	<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN101549715				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Wallace Myers				
Violation Number 1				
Rule Cite(s)	30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(C), and 334.8(c)(5)(B)(ii)			
Violation Description	Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition. Failed to timely renew a UST delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of the ownership change. Specifically, Station ownership changed on February 9, 2007.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		Percent	0%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		Percent	10%	
Matrix Notes	100% of the rule requirement was not met.			
Adjustment		\$9,000		
		\$1,000		
Violation Events				
Number of Violation Events		1	Number of violation days	
		469		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	x		
One single event is recommended based on documentation of the violation during the April 18, 2008 investigation to the May 23, 2008 screening date.			\$1,000	
Good Faith Efforts to Comply		0.0% Reduction	\$0	
		Before NOV NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	<input type="text"/>		
N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		\$1,000		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$9	Violation Final Penalty Total	
			\$1,390	
		This violation Final Assessed Penalty (adjusted for limits)		
		\$1,390		

Economic Benefit Worksheet

Respondent: SUPERIOR GROCERS, INC
Case ID No.: 36023
Reg. Ent. Reference No.: RN101549716
Media: Petroleum Storage Tank
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				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	11-Mar-2007	23-Jan-2009	1.87	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to submit a properly completed UST registration and self-certification form and obtain a delivery certificate. The date required is 30 days after the ownership change and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$9

Screening Date 23-May-2008	Docket No. 2008-0947-PST-E	PCW			
Respondent SUPERIOR GROCERS, INC	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 36023	<i>PCW Revision June 12, 2008</i>				
Reg. Ent. Reference No. RN101549715					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Wallace Myers					
Violation Number 2					
Rule Cite(s)	30 Tex. Admin. Code § 334.8(d)(5)(A)(i) and Tex. Water Code § 26.3467(a)				
Violation Description	Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, ten fuel deliveries were accepted without a delivery certificate.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Major	Moderate	Minor		
Actual				Percent	
Potential			x	5%	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent
					0%
Matrix Notes	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
Adjustment		\$9,500			
		\$500			
Violation Events					
	Number of Violation Events	10	Number of violation days	10	
<i>mark only one with an x</i>	daily		monthly		
	quarterly		semiannual		
	annual		single event	x	
		Violation Base Penalty			
		\$5,000			
Ten single events are recommended for accepting ten deliveries of fuel.					
Good Faith Efforts to Comply		0.0% Reduction		\$0	
		Before NOV	NOV to EDPRP/Settlement Offer		
	Extraordinary				
	Ordinary				
	N/A	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal		\$5,000			
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount	Violation Final Penalty Total				
\$0	\$6,948				
This violation Final Assessed Penalty (adjusted for limits)		\$6,948			

Economic Benefit Worksheet

Respondent: SUPERIOR GROCERS, INC
Case ID No.: 36023
Reg. Ent. Reference No.: RN101549715
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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

Economic benefit included in Violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 23-May-2008	Docket No. 2008-0947-PST-E	PCW			
Respondent SUPERIOR GROCERS, INC		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 36023		<i>PCW Revision June 12, 2008</i>			
Reg. Ent. Reference No. RN101549715					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Wallace Myers					
Violation Number	<input type="text" value="3"/>				
Rule Cite(s)	30 Tex. Admin. Code § 334.49(a)(2), (c)(2)(C), (c)(4)(C) and Tex. Water Code § 26.3475(d)				
Violation Description	<p>Failed to maintain the corrosion protection system in a manner that will ensure continuous corrosion protection to all underground metal components of the UST system. Failed to inspect the impressed current cathodic protection system at least once every 90 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.</p>				
Base Penalty		<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Harm			Percent <input type="text" value="25%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	x	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
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		<input type="text" value="\$7,500"/>			
		<input type="text" value="\$2,500"/>			
Violation Events					
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="35"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>	
	monthly	<input type="text"/>	<input type="text"/>		
	quarterly	x	<input type="text"/>		
	semiannual	<input type="text"/>	<input type="text"/>		
	annual	<input type="text"/>	<input type="text"/>		
	single event	<input type="text"/>	<input type="text"/>		
One quarterly event is recommended based on documentation of the violation during the April 18, 2008 investigation to the May 23, 2008 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	x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal		<input type="text" value="\$2,500"/>			
Economic Benefit (EB) for this violation		Statutory Limit Test			
	Estimated EB Amount	<input type="text" value="\$1,742"/>	Violation Final Penalty Total	<input type="text" value="\$3,474"/>	
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$3,474"/>			

Economic Benefit Worksheet

Respondent: SUPERIOR GROCERS, INC

Case ID No.: 38023

Reg. Ent. Reference No.: RN101548715

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
No commas or \$							

Delayed Costs

Equipment	\$1,500	18-Apr-2008	23-Feb-2009	0.85	\$4	\$85	\$89
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide corrosion protection to all underground components of the UST system. The date required is the date of the investigation and the final date is the estimated 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	18-Feb-2008	18-Apr-2008	1.08	\$54	\$1,000	\$1,054
Other (as needed)	\$500	18-Apr-2005	18-Apr-2008	3.92	\$98	\$500	\$598

Notes for AVOIDED costs

Estimated cost for completing the triennial test. The date required is three years prior to the investigation date and the final date is the investigation date. Estimated cost to conduct bimonthly inspections of the rectifier and other components of the cathodic protection system. The date required is 60 days prior to the investigation and the final date is the investigation date.

Approx. Cost of Compliance

\$3,000

TOTAL

\$1,742

Screening Date: 23-May-2008	Docket No.: 2008-0947-PST-E	PCW				
Respondent: SUPERIOR GROCERS, INC	<i>Policy Revision 2 (September 2002)</i>					
Case ID No.: 36023	<i>PCW Revision June 12, 2008</i>					
Reg. Ent. Reference No.: RN101549715						
Media [Statute]: Petroleum Storage Tank						
Enf. Coordinator: Wallace Myers						
Violation Number: <input type="text" value="4"/>						
Rule Cite(s):	30 Tex. Admin. Code § 334.48(c)					
Violation Description:	Failed to conduct effective manual or automatic inventory control procedures for the UST system.					
Base Penalty:		<input type="text" value="\$10,000"/>				
>> Environmental, Property and Human Health Matrix						
OR	Harm			Percent <input type="text" value="25%"/>		
	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"/>		
>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>		
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:					<input type="text" value="\$7,500"/>	
					<input type="text" value="\$2,500"/>	
Violation Events						
Number of Violation Events: <input type="text" value="1"/>		Number of violation days: <input type="text" value="35"/>				
<i>mark only one with an x</i>	daily	<input type="text"/>				Violation Base Penalty <input type="text" value="\$2,500"/>
	monthly	<input type="text"/>				
	quarterly	<input checked="" type="checkbox"/>				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
	single event	<input type="text"/>				
One quarterly event is recommended based on documentation of the violation during the April 18, 2008 investigation to the May 23, 2008 screening date.						
Good Faith Efforts to Comply		0.0% Reduction			<input type="text" value="\$0"/>	
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>			
Extraordinary	<input type="text"/>					
Ordinary	<input type="text"/>					
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>				
Notes:	The Respondent does not meet the good faith criteria for this violation.					
Violation Subtotal:					<input type="text" value="\$2,500"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount: <input type="text" value="\$21"/>		Violation Final Penalty Total: <input type="text" value="\$3,474"/>				
This violation Final Assessed Penalty (adjusted for limits):					<input type="text" value="\$3,474"/>	

Economic Benefit Worksheet

Respondent: SUPERIOR GROCERS, INC
Case ID No.: 36023
Reg. Ent. Reference No.: RN101649715
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	18-Apr-2006	23-Feb-2009	0.85	\$21	n/a	\$21
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 proper inventory control procedures. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$500	TOTAL:	\$21
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Screening Date: 23-May-2008 **Docket No:** 2008-0947-PST-E **PCW**
Respondent: SUPERIOR GROCERS, INC *Policy Revision 2 (September 2002)*
Case ID No.: 38023 *PCW Revision June 12, 2008*
Reg. Ent. Reference No.: RN101549715
Media [Statute]: Petroleum Storage Tank
Enf. Coordinator: Wallace Myers

Violation Number: 5
Rule Cite(s): 30 Tex. Admin. Code § 384.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii), (d)(1)(B)(iii)(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 every month (not to exceed 35 days between each monitoring). Failed to provide proper release detection for the piping associated with the UST system. Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix
OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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
Total: \$2,500

Violation Events
 Number of Violation Events: 1 35 Number of violation days
 mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$2,500
 One quarterly event is recommended based on documentation of the violation during the April 18, 2008 investigation to the May 23, 2008 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0
 Before NOV NOV to EDPRP/Settlement Offer
 Extraordinary:
 Ordinary:
 N/A: X (mark with x)
Notes: The Respondent does not meet the good faith criteria for this violation.
Violation Subtotal: \$2,500

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount: \$1,160 Violation Final Penalty Total: \$3,474
This violation Final Assessed Penalty (adjusted for limits): \$3,474

Economic Benefit Worksheet

Respondent: SUPERIOR GROCERS, INC
Case ID No.: 36023
Reg. Ent. Reference No.: RN101549715
Media: Petroleum Storage Tank
Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,500	18-Apr-2008	23-Feb-2009	0.85	\$64	n/a	\$64

Notes for DELAYED costs

Estimated cost to provide a method of release detection for the UST system including volume measurement and reconciliation of inventory control records. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	18-Apr-2007	21-Apr-2008	1.93	\$96	\$1,000	\$1,096
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of conducting 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

\$2,500

TOTAL

\$1,160

Screening Date 23-May-2008 **Docket No.** 2008-0947-PST-E **PCW**
Respondent SUPERIOR GROCERS, INC *Policy Revision 2 (September 2002)*
Case ID No. 36023 *PCW Revision June 12, 2008*
Reg. Ent. Reference No. RN101549715
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 115.222(5) and Tex. Health & Safety Code § 362.085(b)
Violation Description Failed to ensure that each UST vent line is equipped with a pressure-vacuum relief valve set to open at a pressure of no more than eight ounces per square inch.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			X		

>> 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 Number of violation days 35

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the April 18, 2008 investigation to the May 23, 2008 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$5 **Violation Final Penalty Total** \$1,390

This violation Final Assessed Penalty (adjusted for limits) \$1,390

Economic Benefit Worksheet

Respondent: SUPERIOR GROCERS, INC
Case ID No.: 36023
Reg. Ent. Reference No.: RN101549715
Media: Petroleum Storage Tank
Violation No.: 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$86	18-Apr-2008	23-Feb-2009	0.85	\$0	\$5	\$5
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly install pressure-vacuum relief valves on the vent lines. The date required is the date of the investigation and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$86

TOTAL

\$5

Compliance History

Customer/Respondent/Owner-Operator:	CN603348517 SUPERIOR GROCERS, INC	Classification: AVERAGE	Rating: 22.50
Regulated Entity:	RN101549715 SUPERIOR GROCERS	Classification: AVERAGE	Site Rating: 22.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	11375
Location:	5537 HIGHWAY 67 EAST, ALVARADO, TX, 76009		Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	May 24, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 23, 2003 to May 23, 2008		

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

Name: Wallace Myers Phone: 512-239-6580

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? | <u>SUPERIOR GROCERS, INC</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Superior Imperial Food Mart Inc</u> |
| 5. When did the change(s) in ownership occur? | <u>2/9/2007</u> |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 01/08/2005 ADMINORDER 2004-0431-PST-E
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failure to monitor for releases once per month (not to exceed 35 days).

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 03/04/2004 (250434)
- 2 05/15/2008 (654226)

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SUPERIOR GROCERS, INC
RN101549715

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0947-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 SUPERIOR GROCERS, 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 5537 Highway 67 East in Alvarado, Johnson County, Texas (the "Station").
2. The Respondent's three 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 May 20, 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 Twenty Thousand One Hundred Forty-Eight Dollars (\$20,148) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Four Hundred Seventy-Four Dollars (\$474) of the administrative penalty and Four Thousand Twenty-Nine Dollars (\$4,029) 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 Fifteen Thousand Six Hundred Forty-Five Dollars (\$15,645) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Forty-Seven Dollars (\$447) 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 successfully conducted the required annual piping tightness test and tested the line leak detectors for performance and operational reliability on April 21, 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 notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on April 18, 2008.

2. Failed to timely renew a UST delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of the ownership change, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(C) and (c)(5)(B)(ii), as documented during an investigation conducted on April 18, 2008. Specifically, the ownership changed on February 9, 2007.
3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on April 18, 2008. Specifically, ten fuel deliveries were accepted without a delivery certificate.
4. Failed to maintain the corrosion protection system in a manner that will ensure continuous corrosion protection to all underground metal components of the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on April 18, 2008.
5. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on April 18, 2008.
6. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on April 18, 2008.
7. Failed to conduct effective manual or automatic inventory control procedures for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on April 18, 2008.
8. Failed to monitor USTs for releases 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 18, 2008.
9. Failed to provide proper release detection for the piping associated with the UST system, 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 18, 2008.
10. 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 18, 2008.
11. Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 18, 2008.
12. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE §

334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 18, 2008.

13. Failed to ensure that each UST vent line is equipped with a pressure-vacuum relief valve set to open at a pressure of no more than eight ounces per square inch, in violation of 30 TEX. ADMIN. CODE § 115.222(5) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 18, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: SUPERIOR GROCERS, INC, Docket No. 2008-0947-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;
 - i. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8; and
 - ii. Begin conducting proper inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.
 - b. Within 30 days after the effective date of this Agreed Order;
 - i. Implement a corrosion protection method for the UST system including the underground metal components and conduct bimonthly inspection and triennial testing of the corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - ii. Install and implement a release detection method for all USTs at the Station and begin recording volume measurements and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50; and

- iii. Install a pressure-vacuum relief valve in each UST vent line, in accordance with 30 TEX. ADMIN. CODE §115.222.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

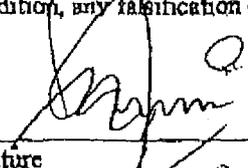
10/3/2009
Date

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.



Signature

10/9/08
Date

SHOUKAT K. BHAYANI
Name (Printed or typed)
Authorized Representative of
SUPERIOR GROCERS, INC

PRESIDENT
Title

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

