

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1189-PST-E TCEQ ID: RN101781821 CASE NO.: 38055

RESPONDENT NAME: V & SS ENTERPRISES, L.L.C. dba Handi Stop 35

| | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|----------------------------------------------------------------------|
| 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: Handi Stop 35, 16950 South Post Oak Road, Houston, Fort Bend County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 7, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-0577; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Varghese Samuel, Director, V & SS ENTERPRISES, L.L.C., 16950 South Post Oak Road, Houston, Texas 77053 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: July 8, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 14, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to verify proper operation of the Stage II equipment at least once every 12 months and vapor space manifolding and dynamic back-pressure at least once every 36 months, and upon major system replacement or modification. Specifically, annual and triennial testing of the Stage II equipment had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems [30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, pressure decay test failed due to defective pressure/vacuum ("P/V") relief valves [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$7,349</p> <p>Total Deferred: \$1,469 <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: \$1,176 (remaining \$4,704 due in 4 monthly payments of \$1,176 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 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 Station:</p> <p>a. Successfully conducted the required annual and triennial testing of the Stage II equipment on July 27, 2009; and</p> <p>b. Replaced the P/V relief valves and upgraded the Stage II equipment to ORVR compatible systems on July 14, 2009.</p> |

Additional ID No(s): 68487



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 21-Jul-2009 | Screening | 27-Jul-2009 | EPA Due | |
| | PCW | 27-Jul-2009 | | | | |

| | | | |
|----------------------------------------|----------------------------------------------|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | V & SS ENTERPRISES, L.L.C. dba Handi Stop 35 | | |
| Reg. Ent. Ref. No. | RN101781821 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Major |

| | | | |
|---------------------------------|------------------------|-----------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 38055 | No. of Violations | 2 |
| Docket No. | 2009-1189-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Rajesh Acharya |
| | | 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 | \$7,500 |
| 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 | 5.0% Enhancement | Subtotals 2, 3, & 7 | \$375 |
| Notes | Enhancement for one NOV with same or similar violation. | | |
| 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 | \$1,125 |
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
| Total EB Amounts | \$602 | <small>*Capped at the Total EB \$ Amount</small> | |
| Approx. Cost of Compliance | \$3,250 | | |
| SUM OF SUBTOTALS 1-7 | | Final Subtotal | \$6,750 |
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 8.9% | Adjustment | \$599 |
| <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. 1. | | |
| | | Final Penalty Amount | \$7,349 |
| STATUTORY LIMIT ADJUSTMENT | | Final Assessed Penalty | \$7,349 |
| DEFERRAL | 20.0% Reduction | Adjustment | -\$1,469 |
| <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 | | | \$5,880 |

Screening Date 27-Jul-2009

Docket No. 2009-1189-PST-E

PCW

Respondent V & SS ENTERPRISES, L.L.C. dba Handi Stop 35

Policy Revision 2 (September 2002)

Case ID No. 38055

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101781821

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

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) | 1 | 5% |
| | 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) 5%

>> **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 NOV with same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

| | | | | |
|-----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|---------------------------------------------------------------------------|--------------------------------------------------------------------|
| Screening Date 27-Jul-2009 | | Docket No. 2009-1189-PST-E | | PCW |
| Respondent V & SS ENTERPRISES, L.L.C. dba Handi Stop 35 | | <small>Policy Revision 2 (September 2002)</small> | | |
| Case ID No. 38055 | | <small>PCW Revision October 30, 2008</small> | | |
| Reg. Ent. Reference No. RN101781821 | | | | |
| Media [Statute] Petroleum Storage Tank | | | | |
| Enf. Coordinator Rajesh Acharya | | | | |
| Violation Number | 1 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b) | | | |
| Violation Description | Failed to verify proper operation of the Stage II equipment at least once every 12 months and vapor space manifolding and dynamic back-pressure at least once every 36 months, and upon major system replacement or modification. Specifically, annual and triennial testing of the Stage II equipment had not been conducted. | | | |
| Base Penalty | | | | \$10,000 |
| >> Environmental, Property and Human Health Matrix | | | | |
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Potential | x | <input type="checkbox"/> | <input type="checkbox"/> | |
| | | | | Percent <input type="text" value="50%"/> |
| >> Programmatic Matrix | | | | |
| | | | | Percent <input type="text" value="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 | | <input type="text" value="1"/> | Number of violation days | |
| | | <input type="text" value="1095"/> | | |
| <small>mark only one with an x</small> | 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 <input type="text" value="\$5,000"/> |
| One single event is recommended for the three-year period preceding the July 8, 2009 investigation. | | | | |
| Good Faith Efforts to Comply | | 10.0% Reduction | | <input type="text" value="\$500"/> |
| | | <small>Before NOV</small> | <small>NOV to EDRP/Settlement Offer</small> | |
| Extraordinary | <input type="checkbox"/> | <input type="checkbox"/> | | |
| Ordinary | <input type="checkbox"/> | x | | |
| N/A | <input type="checkbox"/> | <small>(mark with x)</small> | | |
| Notes | The Respondent came into compliance on July 27, 2009. | | | |
| Violation Subtotal | | | | \$4,500 |
| Economic Benefit (EB) for this violation | | | | |
| Statutory Limit Test | | | | |
| Estimated EB Amount | | <input type="text" value="\$599"/> | Violation Final Penalty Total <input type="text" value="\$5,172"/> | |
| This violation Final Assessed Penalty (adjusted for limits) | | | | <input type="text" value="\$5,172"/> |

Economic Benefit Worksheet

Respondent V & SS ENTERPRISES, L.L.C. dba Handi Stop 35
Case ID No. 38055
Reg. Ent. Reference No. RN101781821
Media Petroleum Storage Tank
Violation No. 1

| | |
|-------------------------|------------------------------|
| 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 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

Avoided Costs

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

| | 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) | \$500 | 8-Jul-2006 | 27-Jul-2009 | 3.97 | \$99 | \$500 | \$599 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Actual avoided cost for annual and triennial testing to verify proper operation of the Stage II equipment per receipt submittal. Date Required is three years prior to the investigation date. Final Date is the compliance date.

Approx. Cost of Compliance

\$500

TOTAL

\$599

| | | | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|--------------------------------------|----------------------|----------------------|
| Screening Date 27-Jul-2009 | Docket No. 2009-1189-PST-E | PCW | | | |
| Respondent V & SS ENTERPRISES, L.L.C. dba Handi Stop 35 | <small>Policy Revision 2 (September 2002)</small> | | | | |
| Case ID No. 38055 | <small>PCW Revision October 30, 2008</small> | | | | |
| Reg. Ent. Reference No. RN101781821 | | | | | |
| Media [Statute] Petroleum Storage Tank | | | | | |
| Enf. Coordinator Rajesh Acharya | | | | | |
| Violation Number 2 | | | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 115.242(1)(C), 115.242(3) and Tex. Health & Safety Code § 382.085(b) | | | | |
| Violation Description | Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. Also, failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, pressure decay test failed due to defective pressure/vacuum relief valves. | | | | |
| 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"/> | x | <input type="text"/> | |
| | | | | Percent 25% | |
| >> Programmatic Matrix | | | | | |
| | | Falsification | Major | Moderate | Minor |
| | | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | | | | 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 | | | | \$7,500 | |
| \$2,500 | | | | | |
| Violation Events | | | | | |
| Number of Violation Events | | 1 | Number of violation days | | 6 |
| <small>mark only one with an x</small> | daily | <input type="text"/> | | | |
| | weekly | <input type="text"/> | | | |
| | monthly | <input type="text"/> | | | |
| | quarterly | x | | | |
| | semiannual | <input type="text"/> | | | |
| | annual | <input type="text"/> | | | |
| single event | <input type="text"/> | | | | |
| Violation Base Penalty | | | | | \$2,500 |
| One quarterly event is recommended based on documentation of the violation during the July 8, 2009 investigation to the July 14, 2009 compliance date. | | | | | |
| Good Faith Efforts to Comply | | 25.0% Reduction | \$825 | | |
| | | Before NOV | NOV to EOPRP/Settlement Offer | | |
| Extraordinary | <input type="text"/> | | | | |
| Ordinary | x | | | | |
| N/A | <input type="text"/> | <small>(mark with x)</small> | | | |
| Notes | The Respondent came into compliance on July 14, 2009. | | | | |
| Violation Subtotal | | | | | \$1,875 |
| Economic Benefit (EB) for this violation | | | Statutory Limit Test | | |
| Estimated EB Amount | | \$3 | Violation Final Penalty Total | | \$2,177 |
| This violation Final Assessed Penalty (adjusted for limits) | | | | | \$2,177 |

Economic Benefit Worksheet

Respondent V & SS ENTERPRISES, L.L.C. dba Handi Stop 35

Case ID No. 38055

Reg. Ent. Reference No. RN101781821

Media Petroleum Storage Tank

Violation No. 2

| | |
|-------------------------|------------------------------|
| 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

| | | | | | | | |
|--------------------------|---------|------------|-------------|------|-----|-----|-----|
| Equipment | \$2,750 | 8-Jul-2009 | 14-Jul-2009 | 0.02 | \$0 | \$3 | \$3 |
| 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 upgrade the Stage II equipment to ORVR compatible systems and to replace the pressure/vacuum relief valves. Date Required is the investigation date. 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

\$2,750

TOTAL

\$3

Compliance History Report

| | | | |
|-----------------------------------------------|-----------------------------------------|-------------------------|-------------------|
| Customer/Respondent/Owner-Operator: | CN603506296 V & SS ENTERPRISES, L.L.C. | Classification: AVERAGE | Rating: 3.00 |
| Regulated Entity: | RN101781821 Handl Stop 35 | Classification: AVERAGE | Site Rating: 3.00 |
| ID Number(s): | PETROLEUM STORAGE TANK REGISTRATION | | 68487 |
| Location: | 16950 S POST OAK RD, HOUSTON, TX, 77053 | | |
| TCEQ Region: | REGION 12 - HOUSTON | | |
| Date Compliance History Prepared: | July 23, 2009 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | July 23, 2004 to July 23, 2009 | | |

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

Name: Rajesh Acharya Phone: (512) 239-0577

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? V & SS ENTERPRISES, L.L.C.
4. If Yes, who was/were the prior owner(s)/operator(s) ? Sahas Business, Inc.
5. When did the change(s) in owner or operator occur? 07/14/2008
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 | 04/30/2007 | (557645) |
| 2 | 05/21/2007 | (560458) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | | | | |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------------|----------|--|
| Date: | 04/30/2007 | (557645) | | | |
| Self Report? | NO | | Classification: | Moderate | |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.248(1) | | | | |
| Description: | 30 Tex. Admin. Code Section 115.248(1) Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the executive director. Successful completion shall constitute c | | | | |
| Self Report? | NO | | Classification: | Moderate | |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.242(1)(C) | | | | |
| Description: | 30 TAC Chapter 115.242(1)(C) - Failure to install a Stage II Onboard Refueling Vapor Recovery (ORVR) system compatible with Onboard Refueling Vapor Recovery (ORVR) systems on motor vehicles. Existing Stage II systems must be in compliance with this requirement. The current vapor vac system installed at the facility is | | | | |
| Self Report? | NO | | Classification: | Moderate | |

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
Description: Tex. Admin. Code Section 115.245 (2) Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TX

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
V & SS ENTERPRISES, L.L.C. DBA
HANDI STOP 35
RN101781821**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1189-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 V & SS ENTERPRISES, L.L.C. dba Handi Stop 35 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. 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 16950 South Post Oak Road in Houston, Fort Bend County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 19, 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 Seven Thousand Three Hundred Forty-Nine Dollars (\$7,349) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid One Thousand One Hundred Seventy-Six Dollars (\$1,176) of the administrative penalty and One Thousand Four Hundred Sixty-Nine Dollars (\$1,469) 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, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Seven Hundred Four Dollars (\$4,704) of the administrative penalty shall be payable in four monthly payments of One Thousand One Hundred Seventy-Six Dollars (\$1,176) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Successfully conducted the required annual and triennial testing of the Stage II equipment on July 27, 2009; and
 - b. Replaced the pressure/vacuum ("P/V") relief valves and upgraded the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems on July 14, 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 Station, the Respondent is alleged to have:

1. Failed to verify proper operation of the Stage II equipment at least once every 12 months and vapor space manifolding and dynamic back-pressure at least once every 36 months, and upon major system replacement or modification, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 8, 2009. Specifically, annual and triennial testing of the Stage II equipment had not been conducted.
2. Failed to upgrade the Stage II equipment to ORVR compatible systems, in violation of 30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 8, 2009.
3. Failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 8, 2009. Specifically, pressure decay test failed due to defective P/V relief valves.

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: V & SS ENTERPRISES, L.L.C. dba Handi Stop 35, Docket No. 2009-1189-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdian
For the Executive Director

11/2/2009
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.

Clarence Samuel
Signature

9/26/09
Date

VARGHESE SAMUEL
Name (Printed or typed)
Authorized Representative of
V & SS ENTERPRISES, L.L.C. dba Handi Stop 35

Director
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.

