

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-1208-PST-E **TCEQ ID:** RN101556256 **CASE NO.:** 36260

**RESPONDENT NAME:** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Sunwest Grocery Citgo, 3324 Luisa Lane, Alvarado, Johnson County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 23, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Jorge Martinez, President and Registered Agent, JO PO AND ASSOCIATES, INC., P.O. Box 1558, Alvarado, Texas 76009  Ms. Paula Martinez, Owner, Sunwest Grocery Citgo, P.O. Box 1558, Alvarado, Texas 76009  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2008-1208-PST-E

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 10, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 18, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to maintain the required underground storage tank ("UST") records and make them immediately available for the inspection upon request by agency personnel. Specifically, the monthly automatic tank gauge test results were not available for review [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failure to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2007 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) 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 UST. Specifically, the Station received 23 deliveries of fuel 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 interstitial space between the protected component and the secondary containment device free of any soil, backfill material, groundwater, or other</p>	<p><b>Total Assessed:</b> \$18,900</p> <p><b>Total Deferred:</b> \$3,780  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$420 (remaining \$14,700 due in 35 monthly payments of \$420 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. On August 26, 2008, the TCEQ DFW Regional Office received documentation verifying that the UST records are being maintained at the Station;</p> <p>b. The TCEQ DFW Regional Office verified that the Respondent submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on June 11, 2008;</p> <p>c. The TCEQ DFW Regional Office received documentation on July 1, 2008 verifying that all of the submergible containment sumps have been vacuumed, containerized, and contents properly disposed;</p> <p>d. On August 26, 2008, the TCEQ DFW Regional Office received documentation verifying that the UST is being monitored, reconciliation of inventory control records is being conducted, and inventory volume measurements are being recorded daily;</p> <p>e. On August 26, 2008, the TCEQ DFW Regional Office received documentation verifying that the Respondent began conducting proper inventory control procedures for the UST at the Station;</p> <p>f. On July 1, 2008, the TCEQ DFW Regional Office received documentation verifying that the UST was properly marked according to the UST registration and self-certification form;</p> <p>g. The TCEQ DFW Regional Office received documentation on July 1, 2008, verifying that the shear valves under dispenser nos. 1 and 2 have been properly anchored; and</p> <p>h. The TCEQ DFW Regional Office</p>

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<p>substances, and inspect and test the protected component for electrical isolation. Specifically, the submersible containment sump pumps were full of water [30 TEX. ADMIN. CODE § 334.49(b)(3)(B) and TEX. WATER CODE § 26.3475(d)].</p> <p>5) Failure to ensure that the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>6) Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent 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)].</p> <p>7) 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)].</p> <p>8) Failure to conduct effective manual or automatic inventory control procedures for the UST involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>9) Failure to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>10) Failure to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves underneath dispenser nos. 1 and 2 were not anchored [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>11) Failure to ensure that the gasoline container is equipped with a submerged fill pipe. Specifically, all of the gasoline fill pipe drop tubes had a clearance of more than six inches from the bottom of the tank</p>		<p>received documentation on July 1, 2008 verifying that all drop tubes have been replaced and a pressure relief valve has been installed.</p>
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30 TEX. ADMIN. CODE § 115.221(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Additional ID No(s): PST No. 73209



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	Assigned	21-Jul-2008	Screening	23-Jul-2008	EPA Due	
	PCW	31-Jul-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo
Reg. Ent. Ref. No.	RN101556256
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36260	No. of Violations	9
Docket No.	2008-1208-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$24,000</b>
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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.

<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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Notes: No adjustment due to compliance history.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$5,100</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$33  
 Approx. Cost of Compliance: \$3,550  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$18,900</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$18,900**

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$18,900</b>
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	<b>-\$3,780</b>
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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.

<b>PAYABLE PENALTY</b>	<b>\$15,120</b>
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Screening Date 23-Jul-2008

Docket No. 2008-1208-PST-E

PCW

Respondent JO PO AND ASSOCIATES, INC. dba Sunwest Grocery (

Policy Revision 2 (September 2002)

Case ID No. 36260

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN101556256

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment due to compliance history.

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

**Screening Date** 23-Jul-2008 **Docket No.** 2008-1208-PST-E **PCW**

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo *Policy Revision 2 (September 2002)*

**Case ID No.** 36260 *PCW Revision June 12, 2008*

**Reg. Ent. Reference No.** RN101556256

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Judy Kluge

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

**Matrix Notes**

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text" value="(mark with x)"/>	

**Notes**

**Violation Subtotal**

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

**Estimated EB Amount**  **Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo  
**Case ID No.** 36260  
**Reg. Ent. Reference No.** RN101556256  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	10-Jun-2008	26-Aug-2008	0.21	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain all UST records. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

<b>Approx. Cost of Compliance</b>	\$500	<b>TOTAL</b>	\$5
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<b>Screening Date</b> 23-Jul-2008		<b>Docket No.</b> 2008-1208-PST-E		<b>PCW</b>	
<b>Respondent</b> JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo				<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 36260				<i>PCW Revision June 12, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN101556256					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>		<input type="text" value="2"/>			
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)"/>			
<b>Violation Description</b>		<input type="text" value="Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2007."/>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
		<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
		<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>	
<b>Matrix Notes</b>	<input type="text" value="100% of the rule requirement was not met."/>				
<b>Adjustment</b>				<input type="text" value="\$9,000"/>	
				<input type="text" value="\$1,000"/>	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<input type="text" value="285"/>	<b>Number of violation days</b>	
<i>mark only one with an x</i>	daily	<input type="text"/>	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>	
	monthly	<input type="text"/>	<input type="text"/>		
	quarterly	<input type="text"/>	<input type="text"/>		
	semiannual	<input type="text"/>	<input type="text"/>		
	annual	<input type="text"/>	<input type="text"/>		
	single event	<input type="text" value="x"/>	<input type="text"/>		
<input type="text" value="One single event is recommended based on documentation of the violation during the June 10, 2008 investigation."/>					
<b>Good Faith Efforts to Comply</b>		<b>25.0% Reduction</b>		<input type="text" value="\$250"/>	
		Before NOV	NOV to EDRP/Settlement Offer		
<b>Extraordinary</b>		<input type="text"/>	<input type="text"/>		
<b>Ordinary</b>		<input type="text" value="x"/>	<input type="text"/>		
<b>N/A</b>		<input type="text"/>	(mark with x)		
<b>Notes</b>		<input type="text" value="The Respondent came into compliance on June 11, 2008."/>			
<b>Violation Subtotal</b>				<input type="text" value="\$750"/>	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$4"/>		<b>Violation Final Penalty Total</b> <input type="text" value="\$750"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$750"/>	

## Economic Benefit Worksheet

**Respondent:** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo  
**Case ID No.:** 36260  
**Reg. Ent. Reference No.:** RN101556256  
**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

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	\$100	31-Aug-2007	11-Jun-2008	0.78	\$4	n/a	\$4
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The delayed cost includes the estimated amount required to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days before the expiration date of September 30, 2007. The final date is the compliance date.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

<b>Approx. Cost of Compliance</b>	\$100	<b>TOTAL</b>	\$4
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<b>Screening Date</b> 23-Jul-2008		<b>Docket No.</b> 2008-1208-PST-E		<b>PCW</b>	
<b>Respondent</b> JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo				<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 36260				<small>PCW Revision June 12, 2008</small>	
<b>Reg. Ent. Reference No.</b> RN101556256					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>		<input type="text" value="3"/>			
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)"/>			
<b>Violation Description</b>		<input type="text" value="Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, the Station received 23 deliveries of fuel without a delivery certificate."/>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
<b>OR</b>	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Potential	<input type="text"/>	<input type="text"/>	x		
<b>Percent</b>				<input type="text" value="5%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>				<input type="text" value="0%"/>	
<b>Matrix Notes</b>	<input type="text" value="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."/>				
<b>Adjustment</b>				<input type="text" value="\$9,500"/>	
				<input type="text" value="\$500"/>	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="23"/>	<b>Number of violation days</b>		
		<input type="text" value="23"/>			
<small>mark only one with an x</small>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	x			
<b>Violation Base Penalty</b>				<input type="text" value="\$11,500"/>	
<input type="text" value="Twenty-three single events are recommended for acceptance of twenty-three deliveries of fuel."/>					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>		
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	x	<input type="text"/>			
N/A	<input type="text"/>	(mark with x)			
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on June 11, 2008."/>				
<b>Violation Subtotal</b>				<input type="text" value="\$8,625"/>	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>		
			<input type="text" value="\$8,625"/>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$8,625"/>	

## Economic Benefit Worksheet

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo  
**Case ID No.** 36260  
**Reg. Ent. Reference No.** RN101556256  
**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				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 is included in Violation No. 2.

### 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 \$0

TOTAL \$0

<b>Screening Date</b> 23-Jul-2008		<b>Docket No.</b> 2008-1208-PST-E		<b>PCW</b>	
<b>Respondent</b> JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo			<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 36260			<small>PCW Revision June 12, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101556256					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>		4			
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 334.49(b)(3)(B) and Tex. Water Code § 26.3475(d)			
<b>Violation Description</b>		Failed to maintain the interstitial space between the protected component and the secondary containment device free of any soil, backfill material, groundwater, or other substances, and inspect and test the protected component for electrical isolation. Specifically, the submergible containment sump pumps were full of water.			
<b>Base Penalty</b>				\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate	Minor	
	Actual				
	Potential	x			
				<b>Percent</b> 25%	
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
					<b>Percent</b> 0%
<b>Matrix Notes</b>		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.			
<b>Adjustment</b>				\$7,500	
				<b>\$2,500</b>	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		1		<b>Number of violation days</b> 21	
<small>mark only one with an x</small>	daily				
	monthly	x			
	quarterly				
	semiannual				
	annual				
	single event				
				<b>Violation Base Penalty</b> \$2,500	
One monthly event is recommended based on documentation of the violation during the June 10, 2008 investigation to the July 1, 2008 compliance date.					
<b>Good Faith Efforts to Comply</b>		<b>25.0% Reduction</b>		<b>\$625</b>	
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary					
Ordinary		x			
N/A			(mark with x)		
<b>Notes</b>		The Respondent came into compliance on July 1, 2008.			
<b>Violation Subtotal</b>				\$1,875	
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		\$1		<b>Violation Final Penalty Total</b> \$1,875	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$1,875	

## Economic Benefit Worksheet

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo  
**Case ID No.** 36260  
**Reg. Ent. Reference No.** RN101556256  
**Media** Petroleum Storage Tank  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	10-Jun-2008	1-Jul-2008	0.06	\$1	n/a	\$1

**Notes for DELAYED costs** Estimated cost to vacuum submergible pumps and properly dispose of the water. The date required is the date of the investigation and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$500

**TOTAL** \$1

<b>Screening Date</b> 23-Jul-2008		<b>Docket No.</b> 2008-1208-PST-E		<b>PCW</b>
<b>Respondent</b> JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo				<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 36260				<i>PCW Revision June 12, 2008</i>
<b>Reg. Ent. Reference No.</b> RN101556256				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b>	<input type="text" value="5"/>			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(c)(1)			
<b>Violation Description</b>	Failed to ensure the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	
	Potential	x	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	<b>Percent</b> <input type="text" value="0%"/>			
<b>Matrix Notes</b>	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.			
<b>Adjustment</b>				<input type="text" value="\$7,500"/>
				<input type="text" value="\$2,500"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="43"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	x		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
<b>Violation Base Penalty</b>				<input type="text" value="\$2,500"/>
One quarterly event is recommended based on documentation of the violation during the June 10, 2008 investigation to the July 23, 2008 screening date.				
<b>Good Faith Efforts to Comply</b>				
		<input type="text" value="10.0%"/>	<b>Reduction</b>	
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text"/>	x		
N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	The Respondent came into compliance on August 26, 2008.			
<b>Violation Subtotal</b>				<input type="text" value="\$2,250"/>
<b>Economic Benefit (EB) for this violation</b>				
<b>Statutory Limit Test</b>				
<b>Estimated EB Amount</b>		<input type="text" value="\$16"/>	<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$2,250"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$2,250"/>

## Economic Benefit Worksheet

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo  
**Case ID No.** 36260  
**Reg. Ent. Reference No.** RN101556256  
**Media** Petroleum Storage Tank  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	10-Jun-2008	26-Aug-2008	0.21	\$16	n/a	\$16

**Notes for DELAYED costs**  
 The estimated cost of monitoring the UST for releases, to include recording daily inventory volume measurements, and monthly reconciliation of inventory control records. The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

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 \$1,500

**TOTAL** \$16

<b>Screening Date</b> 23-Jul-2008		<b>Docket No.</b> 2008-1208-PST-E		<b>PCW</b>	
<b>Respondent</b> JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo				<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 36260				<i>PCW Revision June 12, 2008</i>	
<b>Reg. Ent. Reference No.</b> RN101556256					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>		<input type="text" value="6"/>			
<b>Rule Cite(s)</b>		<input type="text" value="30 Tex. Admin. Code § 334.48(c)"/>			
<b>Violation Description</b>		<input type="text" value="Failed to conduct effective manual or automatic inventory control procedures for the UST involved in the retail sale of petroleum substances used as motor fuel."/>			
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	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"/>	
				<b>Percent</b> <input type="text" value="25%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>	
<b>Matrix Notes</b>		<input type="text" value="Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/>			
<b>Adjustment</b>				<input type="text" value="\$7,500"/>	
				<input type="text" value="\$2,500"/>	
<b>Violation Events</b>					
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b> <input type="text" value="43"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input checked="" type="checkbox"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input type="text"/>			
				<b>Violation Base Penalty</b> <input type="text" value="\$2,500"/>	
<input type="text" value="One quarterly event is recommended based on documentation of the violation during the June 10, 2008 investigation to the July 23, 2008 screening date."/>					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="10.0%"/>	<b>Reduction</b>		
		Before NOV	NOV to EDRP/Settlement Offer		
<b>Extraordinary</b>		<input type="text"/>	<input type="text"/>		
<b>Ordinary</b>		<input type="text"/>	<input checked="" type="checkbox"/>		
<b>N/A</b>		<input type="text"/>	(mark with x)		
<b>Notes</b>		<input type="text" value="The Respondent came into compliance on August 26, 2008."/>			
<b>Violation Subtotal</b>				<input type="text" value="\$2,250"/>	
<b>Economic Benefit (EB) for this violation</b>					
<b>Statutory Limit Test</b>					
<b>Estimated EB Amount</b>		<input type="text" value="\$5"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$2,250"/>		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$2,250"/>	

## Economic Benefit Worksheet

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo  
**Case ID No.** 36260  
**Reg. Ent. Reference No.** RN101556256  
**Media** Petroleum Storage Tank  
**Violation No.** 6

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	10-Jun-2008	26-Aug-2008	0.21	\$5	n/a	\$5
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to conduct inventory control for the UST involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation and final date is the 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**

<b>Approx. Cost of Compliance</b>	\$500	<b>TOTAL</b>	\$5
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<b>Screening Date</b> 23-Jul-2008	<b>Docket No.</b> 2008-1208-PST-E	<b>PCW</b>		
<b>Respondent</b> JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 36260	<small>PCW Revision June 12, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN101556256				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b> 7				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(5)(C)			
<b>Violation Description</b>	Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.			
<b>Base Penalty</b>		\$10,000		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	0%	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>
		<b>Percent</b>	10%	
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
<b>Adjustment</b>		\$9,000		
		\$1,000		
<b>Violation Events</b>				
	<input type="text" value="1"/>	<input type="text" value="21"/>	Number of violation days	
<small>mark only one with an x</small>	daily	<input type="text"/>	<b>Violation Base Penalty</b> \$1,000	
	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 June 10, 2008 investigation.				
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	\$250	
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	x	<input type="text"/>		
N/A	(mark with x)			
<b>Notes</b>	The Respondent came into compliance on July 1, 2008.			
<b>Violation Subtotal</b>		\$750		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>	\$750	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$750		

## Economic Benefit Worksheet

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo

**Case ID No.** 36260

**Reg. Ent. Reference No.** RN101556256

**Media** Petroleum Storage Tank

**Violation No.** 7

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	10-Jun-2008	1-Jul-2008	0.06	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost includes the amount required to permanently affix a metal label to each UST fill tube. The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$0

<b>Screening Date</b> 23-Jul-2008	<b>Docket No.</b> 2008-1208-PST-E	<b>PCW</b>			
<b>Respondent</b> JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo		<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 36260		<i>PCW Revision June 12, 2008</i>			
<b>Reg. Ent. Reference No.</b> RN101556256					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Judy Kluge					
<b>Violation Number</b>	<input type="text" value="8"/>				
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.45(c)(3)(A)"/>				
<b>Violation Description</b>	<input type="text" value="Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves underneath dispenser nos. 1 and 2 were not anchored."/>				
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Harm</b>				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
	Potential	<input type="text"/>	x	<input type="text"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
	Falsification	Major	Moderate	Minor	<b>Percent</b> <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment will or could be exposed to a significant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				
<b>Adjustment</b>					<input type="text" value="\$9,000"/>
					<input type="text" value="\$1,000"/>
<b>Violation Events</b>					
		<input type="text" value="1"/>	<input type="text" value="21"/>	Number of violation days	
<i>mark only one with an x</i>	daily	<input type="text"/>	<input type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>	
	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"/>		
<input type="text" value="One quarterly event is recommended based on documentation of the violation during the June 10, 2008 investigation to the July 1, 2008 compliance date."/>					
<b>Good Faith Efforts to Comply</b>		<b>25.0%</b>	<b>Reduction</b>		<input type="text" value="\$250"/>
		Before NOV	NOV to EDRP/Settlement Offer		
	Extraordinary	<input type="text"/>	<input type="text"/>		
	Ordinary	x	<input type="text"/>		
	N/A	<input type="text"/>	(mark with x)		
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on July 1, 2008."/>				
<b>Violation Subtotal</b>					<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>		<input type="text" value="\$750"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>					<input type="text" value="\$750"/>

## Economic Benefit Worksheet

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo  
**Case ID No.** 36260  
**Reg. Ent. Reference No.** RN101556256  
**Media** Petroleum Storage Tank  
**Violation No.** 8

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	\$100	10-Jun-2008	1-Jul-2008	0.06	\$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

Estimated cost to securely anchor all emergency shutoff valves at the base of the dispensing unit. The date required is the date of the investigation and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

<b>Screening Date</b> 23-Jul-2008		<b>Docket No.</b> 2008-1208-PST-E		<b>PCW</b>
<b>Respondent</b> JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo				<small>Policy Revision 2 (September 2002)</small>
<b>Case ID No.</b> 36260				<small>PCW Revision June 12, 2008</small>
<b>Reg. Ent. Reference No.</b> RN101556256				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Judy Kluge				
<b>Violation Number</b>		<input type="text" value="9"/>		
<b>Rule Cite(s)</b>		30 Tex. Admin. Code § 115.222(1) and Tex. Health & Safety Code § 382.085(b)		
<b>Violation Description</b>		Failed to ensure that the gasoline container is equipped with a submerged fill pipe. Specifically, all of the gasoline fill pipe drop tubes had a clearance of more than six inches from the bottom of the tank.		
<b>Base Penalty</b>				<input type="text" value="\$10,000"/>
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
Major      Moderate      Minor				
<input type="text"/>				<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>		Human health or the environment will or could be exposed to a significant amount of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.		
<b>Adjustment</b>				<input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text" value="1"/>	<b>Number of violation days</b>	
		<input type="text" value="21"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text" value="x"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
		<b>Violation Base Penalty</b>		<input type="text" value="\$1,000"/>
One quarterly event is recommended based on documentation of the violation during the June 10, 2008 investigation to the July 1, 2008 compliance date.				
<b>Good Faith Efforts to Comply</b>		<b>25.0% Reduction</b>		<input type="text" value="\$250"/>
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary		<input type="text"/>	<input type="text"/>	
Ordinary		<input type="text" value="x"/>	<input type="text"/>	
N/A		(mark with x)		
<b>Notes</b>		The Respondent came into compliance on July 1, 2008.		
<b>Violation Subtotal</b>				<input type="text" value="\$750"/>
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<input type="text" value="\$1"/>	<b>Violation Final Penalty Total</b>	
			<input type="text" value="\$750"/>	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				<input type="text" value="\$750"/>

## Economic Benefit Worksheet

**Respondent** JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo  
**Case ID No.** 36260  
**Reg. Ent. Reference No.** RN101556256  
**Media Violation No.** 9 Petroleum Storage Tank

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$250	10-Jun-2008	1-Jul-2008	0.06	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs** Estimated expense to install drop tubes in the gasoline tanks. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs**

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

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**

<b>Approx. Cost of Compliance</b>	\$250				<b>TOTAL</b>		\$1
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# Compliance History

Customer/Respondent/Owner-Operator:	CN603379108 JO PO AND ASSOCIATES, INC	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101556256 SUNWEST GROCERY CITGO	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	73209
Location:	3324 LUISA LN, ALVARADO, TX, 76009		Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	July 23, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 23, 2003 to July 23, 2008		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Judy Kluge	Phone:	817-588-5825

## Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### 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 07/18/2008 (684259)
  - 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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JO PO AND ASSOCIATES, INC. DBA  
SUNWEST GROCERY CITGO  
RN101556256

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-1208-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 JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo ("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 3324 Luisa Lane in Alvarado, Johnson County, Texas (the "Station").
2. The Respondent's one underground storage tank ("UST") is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 23, 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 Eighteen Thousand Nine Hundred Dollars (\$18,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Twenty Dollars (\$420) of the administrative penalty and Three Thousand Seven Hundred Eighty Dollars (\$3,780) 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 Fourteen Thousand Seven Hundred Dollars (\$14,700) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Twenty Dollars (\$420) 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. On August 26, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that all UST records are being maintained at the Station;
  - b. The TCEQ Dallas/Fort Worth Regional Office verified that the Respondent submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on June 11, 2008;
  - c. The TCEQ Dallas/Fort Worth Regional Office received documentation on July 1, 2008 verifying that all of the submergible containment sumps have been vacuumed, containerized, and contents properly disposed;
  - d. On August 26, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the UST is being monitored, reconciliation of inventory control records is being conducted, and inventory volume measurements are being recorded daily;
  - e. On August 26, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the Respondent began conducting proper inventory control procedures for the UST at the Station;

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- f. On July 1, 2008, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that the UST was properly marked according to the UST registration and self-certification form; and
  - g. The TCEQ Dallas/Fort Worth Regional Office received documentation on July 1, 2008, verifying that the shear valves under dispenser nos. 1 and 2 have been properly anchored; and
  - h. The TCEQ Dallas/Fort Worth Regional Office received documentation on July 1, 2008 verifying that all drop tubes have been replaced and a pressure relief valve has been installed.
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 maintain the required UST records and make them immediately available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on June 10, 2008. Specifically, the monthly automatic tank gauge test results were not available for review.
2. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on June 10, 2008. Specifically, the delivery certificate expired on September 30, 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 UST, 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 June 10, 2008. Specifically, the Station received 23 deliveries of fuel without a delivery certificate.
4. Failed to maintain the interstitial space between the protected component and the secondary containment device free of any soil, backfill material, groundwater, or other substances, and

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inspect and test the protected component for electrical isolation, in violation of 30 TEX. ADMIN. CODE § 334.49(b)(3)(B) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on June 10, 2008. Specifically, the submergible containment sump pumps were full of water.

5. Failed to ensure that the UST is monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on June 10, 2008.
6. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent 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 June 10, 2008.
7. 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 June 10, 2008.
8. Failed to conduct effective manual or automatic inventory control procedures for the UST involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on June 10, 2008.
9. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on June 10, 2008.
10. Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an investigation conducted on June 10, 2008. Specifically, the shear valves underneath dispenser nos. 1 and 2 were not anchored.
11. Failed to ensure that the gasoline container is equipped with a submerged fill pipe, in violation of 30 TEX. ADMIN. CODE § 115.221(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 10, 2008. Specifically, all of the gasoline fill pipe drop tubes had a clearance of more than six inches from the bottom of the tank.

### 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: JO PO AND ASSOCIATES, INC. dba Sunwest Grocery Citgo, Docket No. 2008-1208-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 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.
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.



JP PO AND ASSOCIATES, INC. dba Southwest Grocery (Ctgo)  
DOCKET NO. 2008-1208-PST-E  
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*John S. Miller*  
For the Executive Director

1/30/2009  
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.

*Paula Martinez*  
Signature

11-14-08  
Date

Paula Martinez  
Name (Printed or typed)  
Authorized Representative of  
JP PO AND ASSOCIATES, INC. dba Southwest Grocery Ctgo

Owner  
Title

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

