

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2007-1934-PST-E TCEQ ID: RN105354229 CASE NO.: 35020
RESPONDENT NAME: GAS2006 PARTNERS, LP DBA HAWK COVE GROCERY**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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

SITE WHERE VIOLATION(S) OCCURRED: 1617 North Shore Road, Quinlan, Hunt County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 12, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Stephanie Frazee, Litigation Division, MC 175, (512) 239-3693
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0557

TCEQ Regional Contact: Mr. Sam Barrett, Dallas/Fort Worth Regional Office, R-4, (817) 588-5903

Respondent: Mr. Dan Garrett, President, GAS2006 Partners, LP, 8350 North Central Expressway, Suite 1300, Dallas, TX 75206

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 30, 2007</p> <p>Date of NOE Relating to this Case: November 27, 2007</p> <p>Background Facts: The EDPRP was filed August 11, 2008. The Respondent received notice of the EDPRP on August 12, 2008. The Respondent has not filed a response or requested a hearing.</p> <p>Current Compliance Status: The Respondent no longer owns or operates the Facility.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and b)]. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and TEX. ADMIN. CODE § 334.50(b)(1)(A)]. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel [30 TEX. ADMIN. CODE § 334.48(c)]. Failed to register with the Commission USTs in existence on or after September 1, 1987 [TEX. WATER CODE § 26.346 and 30 TEX. ADMIN. CODE § 334.7(a)(1)]. Failed to ensure that the USTs' registration and self-certification form is fully and accurately completed and submitted to the Commission in a timely manner [TEX. WATER CODE § 26.346 and 30 TEX. ADMIN. CODE § 334.8(c)(4)(B)]. 	<p>Total Assessed: \$19,900</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$19,900</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>As of December 6, 2007, the Respondent no longer owns or operates the Facility.</p>

6. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].

7. Failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].

8. Failed to provide written notification to the Commission at least thirty days prior to initiating the construction activities [30 TEX. ADMIN. CODE § 334.6(b)(2)].

9. Failed to include a minimum of two observation wells in a tank hole containing two tanks [30 TEX. ADMIN. CODE § 334.45(e)(4)(B)].

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision November 6, 2007

TCEQ DATES	Assigned	28-Nov-2007	Screening	28-Nov-2007	EPA Due	
	PCW	20-Jun-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Gas2006 Partners, LP dba Hawk Cove Grocery
Reg. Ent. Ref. No.	RN105354229
Facility/Site Region	4-Dallas/Fort Worth Major/Minor Source: Minor

CASE INFORMATION			
Enf./Case ID No.	35020	No. of Violations	8
Docket No.	2007-1934-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya
Multi-Media		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** \$18,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes: No adjustment due to compliance history.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction **Subtotal 5** \$0

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

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts \$1,552 0% Enhancement* **Subtotal 6** \$0
Approx. Cost of Compliance \$5,200 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$18,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 8% **Adjustment** \$1,400

Reduces or enhances the Final Subtotal by the indicated percentage.
 Notes: Recommended adjustment to capture the avoided cost of compliance associated with Violation Nos. 1 and 7.

Final Penalty Amount \$19,900

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$19,900

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

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)
 Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$19,900

Screening Date 28-Nov-2007

Docket No. 2007-1934-PST-E

PCW

Respondent Gas2006 Partners, LP dba Hawk Cove Grocery

Policy Revision 2 (September 2002)

Case ID No. 35020

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN105354229

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 (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

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 28-Nov-2007	Docket No. 2007-1934-PST-E	PCW
Respondent Gas2006 Partners, LP dba Hawk Cove Grocery	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35020	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN105354229		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Rajesh Acharya		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)	
Violation Description	Failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>		<input type="text"/>
				Percent <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	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="checkbox"/>	

Violation Base Penalty

Two single events (one per tank) are recommended based on documentation of the violation during the October 30, 2007 investigation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,365"/>	Violation Final Penalty Total <input type="text" value="\$2,151"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,151"/>	

Economic Benefit Worksheet

Respondent Gas2006 Partners, LP dba Hawk Cove Grocery

Case ID No. 35020

Reg. Ent. Reference No. RN105354229

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,300	30-Oct-2006	30-Oct-2007	1.0	\$65	\$1,300	\$1,365
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

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

Approx. Cost of Compliance

\$1,300

TOTAL

\$1,365

Screening Date 28-Nov-2007	Docket No. 2007-1934-PST-E	PCW
Respondent Gas2006 Partners, LP dba Hawk Cove Grocery	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35020	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN105354229		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Rajesh Acharya		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)"/>	
Violation Description	<input type="text" value="Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring)."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix					
OR	Harm				
		Major	Moderate	Minor	
	Release	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
>> Programmatic Matrix					
	Falsification				
		Major	Moderate	Minor	
	Release	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Matrix Notes	<input type="text" value="Human health or environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				
Adjustment					<input type="text" value="\$7,500"/>
					<input type="text" value="\$2,500"/>

Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="30"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	monthly	<input type="text" value="x"/>
	quarterly	<input type="text"/>	semiannual	<input type="text"/>
	annual	<input type="text"/>	single event	<input type="text"/>
				Violation Base Penalty <input type="text" value="\$2,500"/>
<input type="text" value="One monthly event is recommended from the investigation date of October 30, 2007 to the screening date of November 28, 2007."/>				

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$63"/>	Violation Final Penalty Total <input type="text" value="\$2,689"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,689"/>	

Economic Benefit Worksheet

Respondent Gas2006 Partners, LP dba Hawk Cove Grocery

Case ID No. 35020

Reg. Ent. Reference No. RN105354229

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$1,500	30-Oct-2007	30-Aug-2008	0.8	\$63	n/a	\$63

Notes for DELAYED costs

Estimated cost to monitor USTs for releases. Date Required is the date of investigation. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,500

TOTAL \$63

Screening Date 28-Nov-2007	Docket No. 2007-1934-PST-E	PCW
Respondent Gas2006 Partners, LP dba Hawk Cove Grocery	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35020	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN105354229		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Rajesh Acharya		
Violation Number <input type="text" value="3"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.48(c)"/>	
Violation Description	<input type="text" value="Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Release	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
				Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
single event	<input type="text"/>	

Violation Base Penalty

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 Gas2006 Partners, LP dba Hawk Cove Grocery
Case ID No. 35020
Reg. Ent. Reference No. RN105354229
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
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	30-Oct-2007	30-Aug-2008	0.8	\$4	n/a	\$4
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated amount required to conduct proper inventory control procedures. Date Required is the date of investigation. Final Date is the estimated date of compliance.

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$100	TOTAL	\$4
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Screening Date 28-Nov-2007	Docket No. 2007-1934-PST-E	PCW
Respondent Gas2006 Partners, LP dba Hawk Cove Grocery	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35020	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN105354229		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Rajesh Acharya		
Violation Number <input type="text" value="4"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code §§ 334.7(a)(1) and 334.8(c)(4)(B) and Tex. Water Code § 26.346"/>	
Violation Description	<input type="text" value="Failed to register with the commission USTs in existence on or after September 1, 1987. Failed to ensure that the UST registration and self-certification form is fully and accurately completed and submitted to the agency in a timely manner. Specifically, the initial self-certification was not submitted."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>		<input type="text"/>
				Percent <input type="text" value="10%"/>	
Matrix Notes	<input type="text" value="100% of the rule requirement was not met."/>				
Adjustment				<input type="text" value="\$9,000"/>	

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="30"/>	Number of violation days												
<i>mark only one with an x</i> <table border="1" style="margin-left: 20px;"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td><input type="text"/></td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> </table>	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="checkbox"/>	Violation Base Penalty <input type="text" value="\$1,000"/>	
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="checkbox"/>													
<input type="text" value="One single event is recommended based on documentation of the violation during the October 30, 2007 investigation."/>														

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$3"/>	Violation Final Penalty Total <input type="text" value="\$1,076"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,076"/>	

Economic Benefit Worksheet

Respondent Gas2006 Partners, LP dba Hawk Cove Grocery

Case ID No. 35020

Reg. Ent. Reference No. RN105354229

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	30-Oct-2007	30-May-2008	0.6	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to properly complete and submit UST registration form. Date required is the investigation date.
Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

Screening Date 28-Nov-2007	Docket No. 2007-1934-PST-E	PCW
Respondent Gas2006 Partners, LP dba Hawk Cove Grocery	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 35020	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN105354229		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Rajesh Acharya		
Violation Number <input type="text" value="5"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and and Tex. Water Code § 26.3467(a)"/>	
Violation Description	<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 USTs. Specifically, 12 fuel deliveries were accepted without a delivery certificate."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate		Minor
	Release	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	
				Percent <input type="text" value="5%"/>	

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>		<input type="text"/>
				Percent <input type="text" value="0%"/>	
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$6,454"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$6,454"/>	

Economic Benefit Worksheet

Respondent Gas2006 Partners, LP dba Hawk Cove Grocery

Case ID No. 35020

Reg. Ent. Reference No. RN105354229

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in violation no. 4.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN603251505	GAS2006 PARTNERS, LP	Classification:	Rating:
Regulated Entity:	RN105354229	HAWK COVE GROCERY	Classification:	Site Rating:
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	78861
Location:	1617 NORTHSORE RD, QUINLAN, TX, 75474			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	December 18, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 18, 2002 to December 18, 2007			

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 of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 11/21/2007 (596895)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GAS2006 PARTNERS, LP DBA
HAWK COVE GROCERY,
RN105354229

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-1934-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is GAS2006 Partners, LP dba Hawk Cove Grocery ("GAS2006 Partners").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. GAS2006 Partners owned and operated a convenience store with retail sales of gasoline located at 1617 North Shore Road, Quinlan, Hunt County, Texas (the "Facility").
2. GAS2006 Partners' two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. GAS2006 Partners' USTs contain a regulated substance as defined in the rules of the Commission.
3. During an inspection conducted on October 30, 2007, a TCEQ Dallas/Fort Worth Regional Office investigator documented that GAS2006:
 - a. Failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
 - b. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

- c. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.
 - d. Failed to register with the Commission USTs in existence on or after September 1, 1987.
 - e. Failed to ensure that the UST registration and self-certification form is fully and accurately completed and submitted to the Commission in a timely manner. Specifically, the initial self-certification was not submitted.
 - f. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, twelve fuel deliveries were accepted without a delivery certificate.
 - g. Failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, shear valves were not properly anchored at the base of the dispenser.
 - h. Failed to provide written notification to the Commission at least thirty days prior to initiating the construction activities. Specifically, construction notification was not submitted for installation of the USTs at the Facility.
 - i. Failed to include a minimum of two observation wells in a tank hole containing two tanks. Specifically, the tank hole had only one observation well.
4. GAS2006 Partners received notice of the violations on or about December 2, 2007.
 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against GAS2006 Partners, LP dba Hawk Cove Grocery" (the "EDPRP") in the TCEQ Chief Clerk's office on August 11, 2008.
 6. By letter dated August 11, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served GAS2006 Partners with notice of the EDPRP. According to the return receipt "green card," GAS2006 Partners received notice of the EDPRP on August 12, 2008.

7. The Executive Director recognizes that GAS2006 Partners sold and ceased operating the Facility as of December 6, 2007.
8. More than twenty days have elapsed since GAS2006 Partners received notice of the EDPRP provided by the Executive Director. GAS2006 Partners failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, GAS2006 Partners is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., GAS2006 Partners failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact No. 3.b., GAS2006 Partners failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
4. As evidenced by Finding of Fact No. 3.c., GAS2006 Partners failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel in violation of 30 TEX. ADMIN. CODE § 334.48(c).
5. As evidenced by Finding of Fact No. 3.d., GAS2006 Partners failed to register with the Commission USTs in existence on or after September 1, 1987, in violation of TEX. WATER CODE § 26.346 and 30 TEX. ADMIN. CODE § 334.7(a)(1).
6. As evidenced by Finding of Fact No. 3.e., GAS2006 Partners failed to ensure that the USTs' registration and self-certification form is fully and accurately completed and submitted to the Commission in a timely manner in violation of TEX. WATER CODE § 26.346 and 30 TEX. ADMIN. CODE § 334.8(c)(4)(B).
7. As evidenced by Finding of Fact No. 3.f., GAS2006 Partners failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a

regulated substance into the USTs in violation of TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).

8. As evidenced by Finding of Fact No. 3.g., GAS2006 Partners failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A).
9. As evidenced by Finding of Fact No. 3.h., GAS2006 Partners failed to provide written notification to the Commission at least thirty days prior to initiating the construction activities in violation of 30 TEX. ADMIN. CODE § 334.6(b)(2).
10. As evidenced by Finding of Fact No. 3.i., GAS2006 Partners failed to include a minimum of two observation wells in a tank hole containing two tanks in violation of 30 TEX. ADMIN. CODE § 334.45(e)(4)(B).
11. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served GAS2006 Partners with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
12. As evidenced by Finding of Fact No. 8, GAS2006 Partners failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against GAS2006 Partners and assess the penalty recommended by the Executive Director.
13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against GAS2006 Partners for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
14. An administrative penalty in the amount of nineteen thousand nine hundred dollars (\$19,900.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
15. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. GAS2006 Partners is assessed an administrative penalty in the amount of nineteen thousand nine hundred dollars (\$19,900.00) for violations of TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ. The payment of this administrative penalty and GAS2006 Partners' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within thirty days after the effective date of this Order and shall be sent with the notation "Re: GAS2006 Partners, LP dba Hawk Cove Grocery; Docket No. 2007-1934-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon GAS2006 Partners.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by GAS2006 Partners shall be made in writing to the Executive Director. Extensions are not effective until GAS2006 Partners receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to GAS2006 Partners if the Executive Director determines that GAS2006 Partners has not complied with one or more of the terms or conditions in this Order.

6. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
7. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

GAS2006 Partners, LP dba Hawk Cove Grocery
DOCKET NO. 2007-1934-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF STEPHANIE J. FRAZEE

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against GAS2006 Partners, LP dba Hawk Cove Grocery” (the “EDPRP”) was filed with the Office of the Chief Clerk on August 11, 2008.

The EDPRP was sent to GAS2006 Partners at its last known address on August 11, 2008 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” GAS2006 Partners received notice of the EDPRP on August 12, 2008.

More than twenty days have elapsed since GAS2006 Partners received notice of the EDPRP. GAS2006 Partners failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Stephanie J. Frazee
Attorney
Texas Commission on Environmental Quality

Affidavit of Stephanie J. Frazee

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Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 14th day of November A.D., 2008.


Notary Signature

Notary Stamp

