

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0077-PST-E TCEQ ID: RN101633048 CASE NO.: 37032**

**RESPONDENT NAME: SELAWI UNLIMITED, INC. dba Sammy Food Store**

<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> Sammy Food Store, 2018 Paisley Drive, Arlington, Tarrant 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 June 15, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>                  TCEQ Attorney/SEP Coordinator: None                  TCEQ Enforcement Coordinator: Mr. Wallace Myers, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6580; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387                  Respondent: Mr. Mohammed Hantouli, Owner, Sammy Food Store, 2018 Paisley Drive, Arlington, Texas 76015                  Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

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> December 4, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> January 6, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to renew a previously issued underground storage tank ("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>2) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, nine fuel deliveries were accepted without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>3) Failure to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>4) Failure to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p>	<p><b>Total Assessed:</b> \$10,915</p> <p><b>Total Deferred:</b> \$2,183  <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> \$262 (remaining \$8,470 due in 35 monthly payments of \$242 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 Facility:</p> <p>a. Submitted an updated UST registration and self-certification form and obtained a TCEQ delivery certificate on December 5, 2008; and</p> <p>b. Began conducting bimonthly inspections of the rectifier and other components of the impressed current cathodic protection system on December 8, 2008.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, install and implement a release detection method for all USTs at the Facility; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): 60716



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	12-Jan-2009	Screening	13-Jan-2009	EPA Due	
	PCW	18-Mar-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	SELAWI UNLIMITED, INC. dba Sammy Food Store
Reg. Ent. Ref. No.	RN101633048
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37032	No. of Violations	4
Docket No.	2009-0077-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Wallace Myers
		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**

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

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

**Compliance History**  **Subtotals 2, 3, & 7**

Notes

**Culpability**   **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Subtotal 6**

Total EB Amounts	\$170
Approx. Cost of Compliance	\$1,700

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes

**PAYABLE PENALTY**

**Screening Date** 13-Jan-2009

**Docket No.** 2009-0077-PST-E

**PCW**

**Respondent** SELAWI UNLIMITED, INC. dba Sammy Food Store

Policy Revision 2 (September 2002)

**Case ID No.** 37032

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101633048

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Wallace Myers

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements 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)** 22%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one 1660 order and for one NOV with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 22%

<b>Screening Date</b> 13-Jan-2009	<b>Docket No.</b> 2009-0077-PST-E	<b>PCW</b>			
<b>Respondent</b> SELAWI UNLIMITED, INC. dba Sammy Food Store		<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 37032		<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN101633048					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Wallace Myers					
<b>Violation Number</b>	<input type="text" value="1"/>				
<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 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>Release</b>	<b>Harm</b>			
		Major      Moderate      Minor			
	Actual Potential	<input type="text"/> <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 checked="" type="checkbox"/>	<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="433"/>	<b>Number of violation days</b>	
<small>mark only one with an x</small>	daily	<input type="text"/>		<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>	
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="checkbox"/>			
<input type="text" value="One single event is recommended based on documentation of the violation during the December 4, 2008 investigation."/>					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>	<input type="text" value="\$250"/>	
			<small>Before NOV      NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>			
N/A	<input type="text"/>	<small>(mark with x)</small>			
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on December 5, 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="\$6"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$979"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$979"/>	

## Economic Benefit Worksheet

**Respondent** SELAWI UNLIMITED, INC. dba Sammy Food Store  
**Case ID No.** 37032  
**Reg. Ent. Reference No.** RN101633048  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

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	31-Aug-2007	5-Dec-2008	1.27	\$6	n/a	\$6

**Notes for DELAYED costs**  
 Estimated cost to renew the delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days prior to the expiration date of the delivery certificate 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** \$6

<b>Screening Date</b> 13-Jan-2009	<b>Docket No.</b> 2009-0077-PST-E	<b>PCW</b>		
<b>Respondent</b> SELAWI UNLIMITED, INC. dba Sammy Food Store		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37032		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101633048				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Wallace Myers				
<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)(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 USTs. Specifically, nine fuel deliveries were accepted 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"/>	<input checked="" type="text" value="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="9"/>	<b>Number of violation days</b>	
		<input type="text" value="9"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		
		<b>Violation Base Penalty</b>	<input type="text" value="\$4,500"/>	
<input type="text" value="Nine single events are recommended for accepting nine deliveries of fuel."/>				
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>	
		<input type="text" value="25.0%"/>	<input type="text" value="\$1,125"/>	
	Extraordinary	<input type="text"/>	<small>Before NOV</small>	
	Ordinary	<input checked="" type="text" value="x"/>	<small>NOV to EDPRP/Settlement Offer</small>	
	N/A	<input type="text"/>	<small>(mark with x)</small>	
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on December 5, 2008."/>			
		<b>Violation Subtotal</b>	<input type="text" value="\$3,375"/>	
<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="\$4,407"/>	
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	
			<input type="text" value="\$4,407"/>	

## Economic Benefit Worksheet

**Respondent** SELAWI UNLIMITED, INC. dba Sammy Food Store  
**Case ID No.** 37032  
**Reg. Ent. Reference No.** RN101633048  
**Media** Petroleum Storage Tank  
**Violation No.** 2

<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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1.

**Avoided Costs**

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

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> 13-Jan-2009	<b>Docket No.</b> 2009-0077-PST-E	<b>PCW</b>			
<b>Respondent</b> SELAWI UNLIMITED, INC. dba Sammy Food Store	Policy Revision 2 (September 2002)				
<b>Case ID No.</b> 37032	PCW Revision October 30, 2008				
<b>Reg. Ent. Reference No.</b> RN101633048					
<b>Media [Statute]</b> Petroleum Storage Tank					
<b>Enf. Coordinator</b> Wallace Myers					
<b>Violation Number</b> <input type="text" value="3"/>					
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.49(c)(2)(C) and Tex. Water Code § 26.3475(d)"/>				
<b>Violation Description</b>	<input type="text" value="Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly."/>				
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>			
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>					
OR	<b>Release</b>	<b>Harm</b>			
		Major      Moderate      Minor			
	Actual	<input type="text"/>	<input type="text"/>		
	Potential	<input type="text" value="x"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>	
<b>&gt;&gt; Programmatic Matrix</b>					
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
	<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"/>	<input type="text" value="4"/>	<b>Number of violation days</b>	
mark only one with an x	daily	<input type="text"/>			
	weekly	<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"/>			
<b>Violation Base Penalty</b>		<input type="text" value="\$2,500"/>			
<input type="text" value="One monthly event is recommended based on documentation of the violation during the December 4, 2008 investigation to the December 8, 2008 compliance date."/>					
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/>	<b>Reduction</b>	<input type="text" value="\$625"/>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>	<input type="text"/>		
Ordinary	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>		
N/A	<input type="text"/>	(mark with x)			
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on December 8, 2008."/>				
<b>Violation Subtotal</b>		<input type="text" value="\$1,875"/>			
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>			
<b>Estimated EB Amount</b>	<input type="text" value="\$105"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$2,449"/>		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$2,449"/>	

## Economic Benefit Worksheet

**Respondent** SELAWI UNLIMITED, INC. dba Sammy Food Store  
**Case ID No.** 37032  
**Reg. Ent. Reference No.** RN101633048  
**Media** Petroleum Storage Tank  
**Violation No.** 3

<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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	5-Oct-2008	8-Dec-2008	1.09	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of the rectifier and other components of the cathodic protection system. The date required is 60 days prior to the investigation and the final date is the compliance date.

Approx. Cost of Compliance \$100

TOTAL \$105

<b>Screening Date</b> 13-Jan-2009	<b>Docket No.</b> 2009-0077-PST-E	<b>PCW</b>		
<b>Respondent</b> SELAWI UNLIMITED, INC. dba Sammy Food Store		<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37032		<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN101633048				
<b>Media [Statute]</b> Petroleum Storage Tank				
<b>Enf. Coordinator</b> Wallace Myers				
<b>Violation Number</b>	4			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)			
<b>Violation Description</b>	Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).			
<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="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	25%	
<b>&gt;&gt; Programmatic Matrix</b>				
<b>Falsification</b>				
Major      Moderate      Minor				
<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
		<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		
		\$2,500		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		1	<b>Number of violation days</b>	
		40		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>	
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
<b>Violation Base Penalty</b>			\$2,500	
One quarterly event is recommended based on documentation of the violation during the December 4, 2008 investigation to the January 13, 2009 screening date.				
<b>Good Faith Efforts to Comply</b>		<b>0.0% Reduction</b>		
		\$0		
		<small>Before NOV      NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/> (mark with x)		
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.			
<b>Violation Subtotal</b>		\$2,500		
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>		<b>Violation Final Penalty Total</b>		
\$58		\$3,080		
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>		
		\$3,080		

## Economic Benefit Worksheet

**Respondent** SELAWI UNLIMITED, INC. dba Sammy Food Store  
**Case ID No.** 37032  
**Reg. Ent. Reference No.** RN101633048  
**Media** Petroleum Storage Tank  
**Violation No.** 4

Percent Interest	Years of Depreciation
.50	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	4-Dec-2008	13-Sep-2009	0.78	\$58	n/a	\$58

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs at the Facility. The date required is the date of the investigation and the final date is the estimated date of compliance.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$58



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  
SELAWI UNLIMITED, INC. DBA  
SAMMY FOOD STORE  
RN101633048

§  
§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2009-0077-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 SELAWI UNLIMITED, INC. dba Sammy Food Store ("the Respondent") under the authority of 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 operates a convenience store with retail sales of gasoline at 2018 Paisley Drive in Arlington, Tarrant County, Texas (the "Facility").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
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 January 11, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Nine Hundred Fifteen Dollars (\$10,915) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Sixty-Two Dollars (\$262) of the administrative penalty and Two Thousand One Hundred Eighty-Three Dollars (\$2,183) 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 Eight Thousand Four Hundred Seventy Dollars (\$8,470) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Forty-Two Dollars (\$242) 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 Facility:
  - a. Submitted an updated UST registration and self-certification form and obtained a TCEQ delivery certificate on December 5, 2008; and
  - b. Began conducting bimonthly inspections of the rectifier and other components of the impressed current cathodic protection system on December 8, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As operator of the Facility, the Respondent is alleged to have:

1. Failed to 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 December 4, 2008. Specifically, the delivery certificate expired on September 30, 2007.

2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on December 4, 2008. Specifically, nine fuel deliveries were accepted without a delivery certificate.
3. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on December 4, 2008.
4. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on December 4, 2008.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: SELAWI UNLIMITED, INC. dba Sammy Food Store, Docket No. 2009-0077-PST-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, install and implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50; and

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

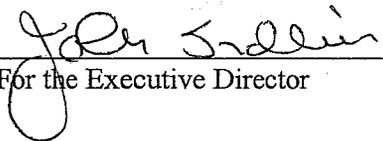
Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

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

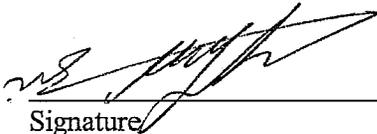
5/12/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

  
\_\_\_\_\_  
Signature

04-14-09  
Date

Mohammed Hantouli  
Name (Printed or typed)  
Authorized Representative of  
SELAWI UNLIMITED, INC. dba Sammy Food Store

owner  
Title

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