

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-0676-PST-E **TCEQ ID:** RN100710573 **CASE NO.:** 35771**RESPONDENT NAME:** ADDISON ENTERPRISES, INC. dba Phillips 66

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Phillips 66, 4010 Red Bluff Road, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 30, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2136; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Ray Khalil, President, ADDISON ENTERPRISES, INC., 4100 Spring Valley Road, Suite 515, Farmers Branch, Texas 75244 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 28, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 17, 2008 (NOE)</p> <p>Background Facts: This was a record review investigation.</p> <p>WASTE</p> <p>1) Failure to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the triennial test failed and the system was not retested [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the dynamic pressure test indicated a blockage between the vents and the underground storage tanks ("USTs"). Also, air to liquid ratio failed due to defective nozzles on Dispenser Nos. 3, 4, and 7 [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$5,116</p> <p>Total Deferred: \$1,023 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$138 (remaining \$3,955 due in 35 monthly payments of \$113 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Conduct the required triennial testing of the Stage II equipment; and</p> <p>ii. Begin maintaining the Stage II vapor recovery system in proper operating condition including, but not limited to clearing the blockage between the vents and the USTs, and replacing or repairing nozzles on Dispenser Nos. 3, 4, and 7, and post operating instructions on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.</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 Provisions a.i. and a.ii.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision March 8, 2008

TCFQ	DATES	Assigned 14-Apr-2008	Screening 16-Apr-2008	EPA Due
		PCW 21-Apr-2008		

RESPONDENT/FACILITY INFORMATION	
Respondent	ADDISON ENTERPRISES, INC. dba Phillips 66
Reg. Ent. Ref. No.	RN100710573
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35771	No. of Violations	2
Docket No.	2008-0676-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
Multi-Media		EC's Team	Enforcement Team 8
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section	
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 \$3,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>	
Compliance History	12% Enhancement Subtotals 2, 3, & 7 \$420
Notes	Enhancement for two Notices of Violation with same or similar violations and one Notice of Violation without same or similar violations.
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	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>
N/A	X (mark with x)
Notes	The Respondent does not meet the good faith criteria.
	0% Enhancement Subtotal 6 \$0
Total EB Amounts	\$1,205
Approx. Cost of Compliance	\$1,250
	*Capped at the Total EB \$ Amount
SUM OF SUBTOTALS 1-7	Final Subtotal \$3,920
OTHER FACTORS AS JUSTICE MAY REQUIRE	31% Adjustment \$1,196
<small>Reduces or enhances the Final Subtotal by the Indicated percentage.</small>	
Notes	Recommended adjustment to capture the avoided cost for compliance associated with the violation.
	Final Penalty Amount \$5,116
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty \$5,116
DEFERRAL	20% Reduction Adjustment -\$1,023
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>	
Notes	Deferral offered for expedited settlement.
PAYABLE PENALTY	\$4,093

Screening Date 16-Apr-2008	Docket No. 2008-0676-PST-E	PCW
Respondent: ADDISON ENTERPRISES, INC. dba Phillips 66		<i>Policy Revision 2 (September 2002)</i>
Case ID No.: 35771		<i>PCW Revision March 8, 2008</i>
Reg. Ent. Reference No.: RN100710573		
Media [Statute]: Petroleum Storage Tank		
Enf. Coordinator: Thomas Greimel		

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>	2	10%
	Other written NOVs	1	2%
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%
<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) 12%

>> **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 two Notices of Violation with same or similar violations and one Notice of Violation without same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date: 16-Apr-2008 **Docket No.:** 2008-0878-PST-E **PCW**
Respondent: ADDISON ENTERPRISES, INC. dba Phillips 66 *Policy Revision 2 (September 2002)*
Case ID No.: 35771 *PCW Revision March 8, 2008*
Reg. Ent. Reference No.: RN100710573
Media [Statute]: Petroleum Storage Tank
Enf. Coordinator: Thomas Greimel

Violation Number: 1
Rule Cite(s): 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)
Violation Description: Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor-space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the triennial test failed and the system was not retested.
Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix
OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
Adjustment: \$7,500
Total: \$2,500

Violation Events
 Number of Violation Events: 1 1095 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty: \$2,500
 One single event is recommended for the three-year period preceding the February 28, 2008 record review.

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount: \$1,198 Violation Final Penalty Total: \$3,654
This violation Final Assessed Penalty (adjusted for limits): \$3,654

Economic Benefit Worksheet

Respondent ADDISON ENTERPRISES, INC. dba Phillips 66

Case ID No. 35771

Reg. Ent. Reference No. RN100710573

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
<small>No commas or \$</small>							

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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	28-Feb-2005	28-Feb-2008	3.9	\$196	\$1,000	\$1,196
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Avoided cost for conducting the required Stage II testing. The Date Required is three years prior to the record review date and the Final Date is the date of the record review.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,196

Screening Date 16-Apr-2008 **Docket No.** 2008-0676-PST-E **PCW**
Respondent ADDISON ENTERPRISES, INC. dba Phillips 66 *Policy Revision 2 (September 2002)*
Case ID No. 35771 *PCW Revision March 8, 2008*
Reg. Ent. Reference No. RN100710573
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Thomas Greimel

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 115.242(3) and (9) and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, the dynamic pressure test indicated a blockage between the vents and the USTs. Also, air to liquid ratio failed due to defective nozzles on Dispenser Nos. 3, 4, and 7. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes
 Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the February 28, 2008 record review to the April 16, 2008 screening date.

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

Estimated EB Amount \$9 **Violation Final Penalty Total** \$1,462

This violation Final Assessed Penalty (adjusted for limits) \$1,462

Economic Benefit Worksheet

Respondent: ADDISON ENTERPRISES, INC. dba Phillips 66
Case ID No.: 35771
Reg. Ent. Reference No.: RN100710573
Media: Petroleum Storage Tank
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			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)	\$250	28-Feb-2008	10-Nov-2008	0.7	\$9	n/a	\$9

Notes for DELAYED costs

Estimated cost to clear blockage, repair or replace nozzles, and post operation instructions on front of each dispenser at the Station. The Date Required is the date of the record review and the Final Date is the expected 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

\$250

TOTAL

\$9

Compliance History

Customer/Respondent/Owner-Operator:	CN600888275 ADDISON ENTERPRISES, INC.	Classification: AVERAGE	Rating: 21.81
Regulated Entity:	RN100710573 PHILLIPS 66	Classification: AVERAGE	Site Rating: 2.25
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	61113
Location:	4010 RED BLUFF RD, PASADENA, TX, 77503	Rating Date: 9/1/2007	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	April 16, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 16, 2003 to April 16, 2008		

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

Name: Shontay Wilcher Phone: (512) 239-2136

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	09/08/2004	(288763)
2	02/23/2007	(541353)
3	07/20/2007	(566571)
4	09/26/2007	(593905)
5	03/17/2008	(637423)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/23/2007	(541353)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.54(d)(2)		
Description:	Failure to ensure that any residue from stored regulated substances which remains in the system shall not exceed a depth of 2.5 centimeters at the deepest point and shall not exceed 0.3% by weight of the system at full capacity.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter A 334.7(d)(3)		
Description:	Failure to provide amended registration for any change or additional information regarding USTs.		
Date:	07/20/2007	(566571)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(1)		
Description:	Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, which must be performed at least once every 36 months.		

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)
Description: Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system.

Date: 09/26/2007 (593905)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.54(d)(2)
Description: Failure to ensure that any residue from stored regulated substances which remains in the system shall not exceed a depth of 2.5 centimeters at the deepest point and shall not exceed 0.3% by weight of the system at full capacity.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
Description: Failure to provide amended registration for any change or additional information regarding USTs.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.245(1)
Description: Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification. The verification shall include all functional tests that were required for the initial system test, which must be performed at least once every 36 months.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)
Description: Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system.

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
ADDISON ENTERPRISES, INC. DBA
PHILLIPS 66
RN100710573

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0676-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 ADDISON ENTERPRISES, INC. dba Phillips 66 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 4010 Red Bluff Road in Pasadena, Harris County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 22, 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 Five Thousand One Hundred Sixteen Dollars (\$5,116) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Thirty-Eight Dollars (\$138) of the administrative penalty and One Thousand Twenty-Three Dollars (\$1,023) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Nine Hundred Fifty-Five Dollars (\$3,955) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Thirteen Dollars (\$113) 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 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.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented

during a record review conducted on February 28, 2008. Specifically, the triennial test failed and the system was not retested.

2. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system including, but not limited to absence or disconnection of any component that is a part of the approved system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on February 28, 2008. Specifically, the dynamic pressure test indicated a blockage between the vents and the underground storage tanks ("USTs"). Also, air to liquid ratio failed due to defective nozzles on Dispenser Nos. 3,4, and 7.
3. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on February 28, 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: ADDISON ENTERPRISES, INC. dba Phillips 66, Docket No. 2008-0676-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:
 - i. Conduct the required triennial testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and
 - ii. Begin maintaining the Stage II vapor recovery system in proper operating condition including, but not limited to clearing the blockage between the vents and the USTs, and replacing or repairing nozzles on Dispenser Nos. 3, 4, and 7,

and post operating instructions on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.242.

- 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 Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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

substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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

TCEQ Fax:5122394562 Jul 23 2008 9:10 P.09
ADDISON ENTERPRISES, INC. dba Phillips 66
DOCKET NO. 2008-0676-PST-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Bradley
For the Executive Director

11/13/2009
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.

Ray Khalif
Signature

7/28/08
Date

Ray Khalif
Name (Printed or typed)

PM
Title

Authorized Representative of
ADDISON ENTERPRISES, INC. dba Phillips 66

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