# EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page DOCKET NO.: 2009-1100-AIR-E TCEQ ID: RN100812486 CASE NO.: 37954 RESPONDENT NAME: ONEOK, Inc. dba Texas Gas Service Company

ORDER TYPE:				
X_1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING		
FINDINGS DEFAULT ORDER	SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER		
AMENDED ORDER	EMERGENCY ORDER			
CASE TYPE:	·			
<u>X</u> AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE		
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION		
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL		
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION		

SITE WHERE VIOLATION(S) OCCURRED: Texas Gas Service Company, 4700 Pollard Street, El Paso, El Paso County

**TYPE OF OPERATION:** Maintenance facility with gasoline dispensers

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 has expressed an interest in this matter.

COMMENTS RECEIVED: The Texas Register comment period expired on December 14, 2009. No comments were received.

## CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387

Respondent: Mr. Alejandro Limon, Director of Operations, ONEOK, Inc., 4700 Pollard Street, El Paso, Texas 79930 Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<ul> <li>Type of Investigation:</li> <li>Complaint</li> <li>Routine</li> <li>Enforcement Follow-up</li> <li>Records Review</li> </ul> Date(s) of Complaints Relating to this Case: None Date of Investigation Relating to this Case: June 8, 2009 Date of NOV/NOE Relating to this Case: June 30, 2009 (NOE) Background Facts: This was a routine investigation. AIR Failure to comply with the maximum Reid Vapor Pressure ("RVP") requirement of 7.0 pounds per square inch absolute ("psia") during the control period of June 1 through September 16. Specifically, a regular unleaded gasoline sample taken from Pump No. 1 was found to have a RVP of 7.56 psia [30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	Total Assessed: \$1,020 Total Deferred: \$204 	Corrective Actions Taken: The Executive Director recognizes that on August 14, 2009, a fuel analysis determined that regular unleaded gasoline dispensed at the Site had a RVP of 6.31 psia.

Additional ID No(s).: EE1195R

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Policy Revision 2 (Sep	Penalty Calculatio	on Worksheet (P	CW) PCW Revision Od	tober 30, 2008
ICEQ DATES Assigned PCW	7-Jul-2009	EPA Due		
Respondent Reg. Ent. Ref. No.	INFORMATION ONEOK, Inc. dba Texas Gas Service Com RN100812486 6-El Paso	pany		
CASE INFORMATION Enf./Case ID No. Docket No.	37954 2009-1100-AIR-E Air	No. of Violations Order Type Government/Non-Profit Enf. Coordinator	1 1660	
	Penalty Calcul	ation Section		
	Penalty Calcula TY (Sum of violation base penalti		Subtotal 1	\$1,000
		69) 		<b>91,000</b>
ADJUSTMENTS (+/+) Subtotals 2-7 are obtai	ned by multiplying the Total Base Penalty (Subtotal 1) b	y the indicated percentage.		
Compliance Hist	ory 2.0%	Enhancement Subt	otals 2, 3, & 7	\$20
Notes	Penalty enhancement due to one pre	vious non-similar NOV.		
Culpability	No 0.0%	Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet th	e culpability criteria.		
Good Faith Effor	t to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefi Approx.		Enhancement* d at the Total EB \$ Amount	Subtotal 6	\$0
SUM OF SUBTOTAL	\$ 1 <b>.7</b>		inal Subtotal	\$1,020
	S JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Notes				
	<u> </u>	Final Per	naity Amount	\$1,020
STATUTORY LIMIT A	DJUSTMENT	Final Asse	ssed Penalty	\$1,020
DEFERRAL Reduces the Final Assessed Pen	ally by the indicted percentage. <i>(Enter number only;</i> e.,	20.0% Reduction	Adjustment	-\$204
Notes	Deferral offered for expedite			
PAYABLE PENALTY				\$816

Screen	Ing Date 13-Jul-2009 Docket No. 2009-1100-AIR-E			PCW
Res	pondent: ONEOK, Inc. dba Texas Gas Service Company	Policy R	evision 2 (Septe	ember 2002
Cas	se ID No. 37954	PCN	Revision Octo	ber 30, 200
ann - Chaile	ence No. RN100812486 [Statute] Air			
X	ordinator James Nolan			
All	Compliance History Worksheet			
> Compliance History	Sife Enhancement (Subtotal 2)			
Component	Number of	Enter Number Here	Adjust.	67131.7082777887778877
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	Ø	0%	
- -	Other written NOVs	1	2%	
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%	
Orders	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	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)	Ø	0%	
and Consent Decrees	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%	
	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 ( <i>number of audits for which violations were disclosed</i> )	0	0%	
	Plea	se Enter Yes or No	· · · · ·	
	Environmental management systems in place for one year or more	No	0%	
Other	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 P	ercentage (Sı	ıbtotal 2) [	2%
Repeat Violator (Su		E IE ARGER	_	
No		ercentage (Sı		0%
Average Pe	n ", , , , , , , , , , , , , , , , , , ,			0%
Compliance History			· -	
Compliance History Notes	Penalty enhancement due to one previous non-similar NOV.			
I	Total Adjustment Percentage	(Subtotals 2	2, 3, & 7)	2%

Screening Date 1 Respondent 0 Case ID No. 3 Reg. Ent. Reference No. R	NEOK, Inc. dba Texas G 7954	TRUMPORT ACCOUNT OF A DESCRIPTION OF A DESCRIPTION	2009-1100-AIR-E	Policy Revision 2 (September 2002) PCW Revision October 30, 2009
Media [Statute] A Enf. Coordinator Ja Violation Number				
Rule Cite(s)			aith & Safety Code § 382.08	
Violation Description	pounds per square inch September 16, as docu	absolute ("psia") during th mented during an Investig	e control period of June 1 th ation conducted on June 8 ken from Pump No. 3 was fo osia.	rough 2009. Jund to
	10		Base	Penalty \$10,000
>> Environmental, Property and	Harm			
Release OR Actual	Major Moderate	Minor	·····	
Potential			Percent 10%	
>>Programmatic Matrix Falsification	Major Moderate	Minor		
			Percent 0%	
Matrix Notes		psed to insignificant amour tive of human health or the	ts of pollutants which did no environment.	it exceed
			Adjustment	\$9,000
,				\$1,000
Violation Events				
Number of Viola	ition Events		Number of violation days	
	dally weekly monthly quartetly emiannual annual ingle event x		Violation Base	Penalty \$1,000
	One single event is reco	mmended for the one nonc	ompliant sample.	
Good Faith Efforts to Comply	0.0% Before NOV	Reduction NOV to EDPRP/Settlement Off	er	\$0
E	draordinary			
	Ordinary N/A x	(mark with x)		
	Notes The Respon	ndent does not meet the go violation.	ood faith criteria for this	
			Violation S	Subtotal \$1,000
Economic Benefit (EB) for this v	olation		Statutory Limit Test	
Estimated E	B Amount	\$2	Violation Final Penal	ty Total \$1,020
		This violation Final Asse	essed Penalty (adjusted fo	r limits) \$1,020

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Media						Percent Interest	Years of Depreciation
Violation No.	1			<u>Managa</u>	Handragen and an	5.0	20epreciation 15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or S						
Delayed Costs	Lagun an						
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	<u>\$0</u>
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/ai 🚛	\$0
Record Keeping System			•	0.00	\$0	n/ant real	\$0
Training/Sampling		·	and a second	0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	a a n/a	\$0
Permit Costs			<ul> <li>addressed</li> </ul>	0.00	\$0	n/at the	\$0
Other (as needed)	\$250	8-Jun-2009	14-Aug-2009	0.18	\$2	- Wa Stra	\$2
Notes for DELAYED costs	Estimated of					ed RVP is maintaine	
Avoided Costs	· · ·	required is the dat	te of the investiga	tion. The	e final date is the item (except for	ed RVP is maintaine date of compliance. one-time avoided c	ed. The date osts)
	· · ·	required is the dat	te of the investiga	tion. The ntering	e final date is the item (except for \$0	ed RVP is maintaine date of compliance.	ed. The date Osts) \$0
Avoided Costs Disposal Personnel	· · ·	required is the dat	te of the investiga	tion. The	e final date is the item (except for	ed RVP Is maintaine date of compliance. one-time avoided c \$0	ed. The date osts)
Avoided Costs Disposal	· · ·	required is the dat	te of the investiga	tion. Thi ntering 0.00 0.00	e final date is the item (except for \$0 \$0	ed RVP is maintaine date of compliance. one-time avoided c \$0 \$0	ed. The date osts) \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling	· · ·	required is the dat	te of the investiga	tion. The ntering 0.00 0.00 0.00 0.00 0.00	e final date is the item (except for \$0 \$0 \$0 \$0 \$0	ed RVP is maintaine date of compliance. one-time avoided c \$0 \$0 \$0 \$0 \$0	ed. The date () () () () () () () () () ()
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	· · ·	required is the dat	te of the investiga	ion, The ntering 0.00 0.00 0.00 0.00	e final date is the item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0	ed RVP is maintaine date of compliance. one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0	ed. The date <b>osts)</b> \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	· · ·	required is the dat	te of the investiga	tion. The ntering 0.00 0.00 0.00 0.00 0.00	e final date is the item (except for \$0 \$0 \$0 \$0 \$0	ed RVP is maintaine date of compliance. one-time avoided c \$0 \$0 \$0 \$0 \$0	ed. The date () () () () () () () () () ()

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# **Compliance History Report**

Number(0): AIR NEW SOURCE PERMITS PETROLEUM STORAGE TANK Registration ACCOUNT NUMBER REGISTRATION EE1199R 41136   Location: 4100 POLLARD ST, EL PASO, TX, 76930 Jeace Signation Requiring Compliance Hatory Region:	Customer/	Respondent/Owner-Operator:	CN600495477	Texas	Gas Service Company		Classification: AVERAGE	Rating: 2.44
Iteration         PETROLEUM STOPAGE TANK,         PEERISTRATION         PETROLEUM STOPAGE TANK,           Lacation:         4700 POLLARD ST, EL PASO, TX, 79830           TGEQ Region:         REGION 08 - EL PASO,           Camping Centrolinance History Prepared:         Uhy 13, 2009           Agency Decision Regulting Compliance History:         Uhy 13, 2009           Compliance Philos Prepared:         Uhy 13, 2009           Compliance History Prepared:         Uhy 13, 2004           Compliance Philos Prepared:         Uhy 13, 2004           Compliance Philos Prepared:         Uhy 13, 2004           Compliance Philos Prepared:         Uhy 2004 Is Uhy 13, 2009           TGEQ Staff Member to Context for Additional Information Regarding this Compliance Philos Prepared         No           Star Decompliance History Components         If We we user compliance period?         No           1. Has the due been in existence and/or operation for the full are year compliance period?         No         No           3. If Yes, who waskere the prior cowner(soperator?         NA         No           4. Trees, vito waskere the prior owner(soperator occur?         NA           5. Any criminal convectors or the state of To-cas and the federal government.         NA           6. Any criminal convectors or visations or visations or the state of To-cas and the federal government.         NA	Regulated	I Entity:	RN100812486	TEXA	S GAS SERVICE COMF	PANY	Classification: AVERAGE	Site Rating: 0.75
TCE DR Region:       REGION 06 - EL PASO         Date Compliance History Prepared:       July 13, 2004         Agency Dictistion Requiring Compliance History:       July 13, 2004 July 14, 2004 July 14	ID Number	r(s):	PETROLEUM ST					
Dele Compliance History Prepared: July 13, 2009 Agency Decision Requiring Compliance History Enforcement Compliance Period: July 13, 2004 to July 13, 2009 TEGE 3 Eff Member to Contact for Additional Information Regarding this Compliance History Name: Junes Nolan Prione: (21) 239-6634 TEGE 3 Eff Member to Contact for Additional Information Regarding this Compliance History Components 1. Has the site been in existence and/or operation for the full for year compliance period? Year 2. Has there been a (known) change in ownership/operator of the sile during the compliance period? Year 3. If Year, who is the current owner/spic/period? No 3. If Year, who was/were the prior owner/spic/period of the sile during the compliance period? No 3. If Year, who was/were the prior owner/spic/period of the sile during the compliance period? No 3. If Year, who was/were the prior owner/spic/period of the Sile 1 4. Fives who was/were the prior owner/spic/period or the Sile 1 A. Final Enforcement Ordner, court judgements, and consent decrease of the state of Texas and the federal government. NA 5. Any criminal convictions of the state of Texas and the federal government. NA 5. Chronic excessive emissions events. NA 5. Ordnotic excessive emissions events. NA 5. Ordnotic excessive emissions events. 1. 0 0003/2004 (284051) 3. 0 022/02/008 (15977) 3. 0 022/02/008 (15977) 5. Written notices of trivestigations. (NCV) (CCEEDS Inv. Track. No.) Enter 022/12/008 (15977) 5. Ordnotic excessive emissions (NCV). (CCEEDS Inv. Track. No.) 5. 0 03/24/2009 (798943) 5. 0 03/24/2009 (798943) 5. 0 03/24/2009 (798943) 5. 0 03/24/2009 (798943) 5. Officine in a 03/CCC hapter 334, SibChapter C 344, Sold(HigW) Deccifient in a 03/CC Chapter 334, SibChapter C 344, Sold(HigW) Deccifient in a 03/CC Chapter 334, SibChapter C 344, Sold(HigW) Deccifient in a distribution in manner sufficiently to detect a release. F. Environmental worts:	Location:		4700 POLLARD	ST, EL P/	ASO, TX, 79930			
Agency Decision Requiring Compliance History:       July 13, 2004 to July 13, 2004         TEEQ Staff Member to Contect for Additional Information Regarding this Compliance History:         Name:       james Notan         Image:       james Notan         Phone:       (512) 238-8634         Image:       james Notan         Image:       james Notan         Image:       image: Notan         Image:       Nice         Image:       Site Complimage: Notan<	TCEQ Reg	gion:	REGION 06 - EL	PASO				
Compliance Period:       July 13, 2040 to July 13, 2009         TGEQ Staff Member to Contact for Additional Information Regarding this Compliance History         Name:       James Noten         Phone:       (12) 239-8634         Staff 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 owner/sitpripriperator of the site during the compliance period?       No         3. If Yes, who was/were the prior owner(si/operator(s) ?       N/A         5. When did the change(s) in owner or operator occur?       N/A         6. Rating Date: 9/1/2008 Repeast Violator: NO       N/A         7. Components (Multimedia) for the Site site       N/A         7. NA       NA         8. Any criminal convictions of the state of Texas and the federal government.       N/A         N/A       NA         9. Chronic excessive emissions events.       N/A         1. dispa3/32004 (284651)       2 30/20/2008 (61577)         2. 12/08/2005 (4391263)       3 0/20/2008 (70263)         3. 0/20/2008 (19577)       CNEO(495477)         2. Wittlen noticos of violations (NOV). (CCEDS Inv. Track. No.)       Exessifications in Moderato         2. 0/20/2008 (19577)       Classifications: Moderato         3. 0/20/2008	Date Com	pliance History Prepared:	July 13, 2009					
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History Name: James Nolan Phone: (512) 238-6634  I Has the site been in existence and/or operation for the full five year compliance period? Yes 2. Has there been a @nown) change in ownership/operator of the site during the compliance period? No 3. If Yes, who was/were the prior owner (s/operator(s) ? N/A 4. If Yes, who was/were the prior owner (s/operator(s) ? N/A 5. When did the change(s) in owner or operator occur? N/A 6. Rating Date: 9/1/2008 Repeat Violator: NO Components (Multimedia) for the Site : A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. N/A B. Any oriminal convictions of the state of Texas and the federal government. N/A D. The approval dates of investigations. (CCEDS Inv. Track. No.) 1 08/03/2004 (284651) 2 12/06/2008 (61577) 4 09/10/2008 (61577) 4 09/10/2008 (61577) 4 09/10/2008 (61577) 4 09/10/2008 (61577) CNB00495477 Soft NO Catasification: 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(6) Descriptio: 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(6) Descriptio: 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(6) Descriptio: 20 Teleas F. Environmental audita.	Agency De	ecision Requiring Compliance History:	Enforcement					
Name: james Notan   (Piner: (21) 239-8934 (Piner: (21) 239-8934 (Piner: (Pine: <p< td=""><td>Complianc</td><td>ce Period:</td><td>July 13, 2004 to J</td><td>July 13, 2</td><td>009</td><td></td><td></td><td></td></p<>	Complianc	ce Period:	July 13, 2004 to J	July 13, 2	009			
Site Compliance History Components         Yes         1. Has there been a (known) change in ownership/operator of the site during the compliance period?       No         No         3. If Yes, who is the current owner/operator?       N/A         N/A         4. If Yes, who was/were the prior owner(s)/operator(s) ?       N/A         5. When did the change(s) in owner or operator occur?       N/A         6. Rating Date: 9/1/2008 Repeat Violator: NO       Components (Multimedia) for the Site :         7. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.       N/A         8. Any criminal convictions of the state of Texas and the foderal government.       N/A         N/A       NA         Chorders, court judgements, and consent decrees of the state of Texas and the federal government.         N/A       NA         Chorders, court judgements, and consent decrees of the state of Texas and the federal government.         N/A       NA         Chorder science with state of Texas and the federal government.         N/A       NA         Chorder science with state of Texas and the federal government.         N/A       NA         Chorder science with science science science science science	TCEQ Stat	ff Member to Contact for Additional Info	ormation Regarding	this Com	pliance History			
1. Has the site been in existence and/or operation for the full five year compliance period?       Yes         2. Has there been a (known) change in ownership/operator of the site during the compliance period?       No         3. If Yes, who is the current owner/operator?       NA         4. if Yes, who is the current owner/operator or operator occur?       NA         5. When did the change(s) in owner or operator occur?       NA         6. Rating Date: 9/1/2008 Repeat Violator: NO       Components (Multimedia) for the Site :         A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.       NA         N/A       NA         8. Any oriminal convictions of the state of Texas and the federal government.       NA         N/A       NA         9. The approval dates of investigations. (CCEDS Inv. Track. No.)       1         1       10/00/2006         1       10/00/2006         1       00/00/2006         2       10/202006         3       02/20/2009         4       00/10/2008         5       03/20/2009         6       03/03/2009         7       04         9       03/03/2009         6       03/03/2009         7       04         0	Name:	James Nolan	Ph	ione:	(512) 239-6634			
1. Has the site been in existence and/or operation for the full five year compliance period?       Yes         2. Has there been a (known) change in ownership/operator of the site during the compliance period?       No         3. If Yes, who is the current owner/operator?       NA         4. if Yes, who is the current owner/operator or operator occur?       NA         5. When did the change(s) in owner or operator occur?       NA         6. Rating Date: 9/1/2008 Repeat Violator: NO       Components (Multimedia) for the Site :         A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.       NA         N/A       NA         8. Any oriminal convictions of the state of Texas and the federal government.       NA         N/A       NA         9. The approval dates of investigations. (CCEDS Inv. Track. No.)       1         1       10/00/2006         1       10/00/2006         1       00/00/2006         2       10/202006         3       02/20/2009         4       00/10/2008         5       03/20/2009         6       03/03/2009         7       04         9       03/03/2009         6       03/03/2009         7       04         0			Site C					
2. Has there been a (known) change in conversitip/operator of the site during the compliance period? No 3. If Yes, who is the current owner/operator? NA 4. If Yes, who was/were the prior owner(s)/operator(s) ? NA 5. When did the change(s) in owner or operator occur? NA 6. Rating Date: 9/1/2008 Repeat Violator: NO Components (Multimedia) for the Site : A. Final Enforcement Orders, court judgements, and consent decreas of the stats of Texas and the federal government. N/A 8. Any criminal convictions of the state of Toxas and the federal government. N/A 7. Chronic excessive emissions events. N/A 7. The approval dates of investigations. (CCEDS Inv. Track, No.) 1 00403/2004 (284651) 2 12/06/2005 (439125) 3 02/20/2008 (615577) 4 004/10/2008 (7295631) 7. CN600495477 5. Self NO Classification: Moderato 6. Gitation: 30 TAC Chapter 334, SubChapter C 334.50(d)(1/18)(n) 7. Description: 90 TAC Chapter 334, SubChapter C 334.50(d)(1/18)(n) 7. Enveronmental audits.	1 Hac the	site been in existence and/or energing		-				
<ul> <li>3. If Yes, who is the current owner/operator?</li> <li>N/A</li> <li>4. If Yes, who was/were the prior owner(s)/operator(s)?</li> <li>N/A</li> <li>5. When did the change(s) in owner or operator occur?</li> <li>N/A</li> <li>6. Rating Date: 9/1/2008 Repeat Violator: NO</li> <li>Components (Multimedia) for the Site :</li> <li>A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.</li> <li>N/A</li> <li>8. Any criminal convictions of the state of Texas and the federal government.</li> <li>N/A</li> <li>7. Chronic excessive emissions events.</li> <li>N/A</li> <li>7. The approval dates of investigations. (CCEDS Inv. Treck. No.)</li> <li>1 0803/2004 (224651)</li> <li>2 12/06/2005 (4139126)</li> <li>3 02/20/2008 (615577)</li> <li>4 06/10/2008 (7/2363)</li> <li>5 03/24/2009 (7/39642)</li> <li>6 06/30/2009 (7/59581)</li> <li>7. CN600495477</li> <li>Self NO Classification: Moderato</li> <li>Citation: 30 TAC Chapter 334. SubChapter C 334.50(d)(1/(B)(a))</li> <li>Description: Tealers (a maintain the monthly inventory control records in a menner sufficiently to detect a release.</li> <li>F. Environmental audits.</li> </ul>							0	
<ul> <li>4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A</li> <li>5. When did the change(s) in owner or operator occur? N/A</li> <li>6. Rating Date: #/1/2008 Repeat Violator: NO</li> <li>Components (Multimedia) for the Site :</li> <li>A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. N/A</li> <li>8. Any criminal convictions of the state of Texas and the federal government. N/A</li> <li>8. Any criminal convictions of the state of Texas and the federal government. N/A</li> <li>9. Chronic excessive emissions events. N/A</li> <li>9. The approval dates of investigations. (CCEDS Inv. Track. No.) 1 06/03/2004 (284651) 2 12/06/2005 (439125) 3 02/20008 (615577) 4 06/10/2008 (70283) 5 03/24/2009 (739642) 6 06/30/2009 (739642) 6 06/30/2009 (739642) 6 06/30/2009 (739642) 6 06/30/2009 (702851)</li> <li>E. Written notices of violelions (NOV). (CCEDS Inv. Track. No.) Date: 02/1/2008 (615577) CN600495477 Self NO Classification: Moderate Classification: Moderate Classification: S0 TAC Chapter 334, SubChapter C 334, S0(d)(1)(B)(R)) Description: Failure to maintain the monthly inventory control records in a manner sufficiently to defect a release.</li> <li>F. Environmental audits.</li> </ul>			· · · · · · · · · · · · · · · · · · ·				-	
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G. Type of environmental management systems (EMSs).

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#### N/A

#### H. Voluntary on-site compliance assessment dates.

N/A

## I. Participation in a voluntary pollution reduction program.

N/A

## J. Early compliance.

## N/A

## Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING ONEOK, INC. DBA TEXAS GAS SERVICE COMPANY RN100812486 BEFORE THE TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2009-1100-AIR-E

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## 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 ONEOK, Inc. dba Texas Gas Service Company ("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 maintenance facility with gasoline dispensers at 4700 Pollard Street in El Paso, El Paso County, Texas (the "Site").
- 2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 5, 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 One Thousand Twenty Dollars (\$1,020) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The

ONEOK, Inc. dba Texas Gas Service Company DOCKET NO. 2009-1100-AIR-E Page 2

> Respondent has paid Eight Hundred Sixteen Dollars (\$816) of the administrative penalty and Two Hundred Four Dollars (\$204) 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.

- 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 on August 14, 2009, a fuel analysis determined that regular unleaded gasoline dispensed at the Site had a Reid Vapor Pressure ("RVP") of 6.31 pounds per square inch absolute ("psia").
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

#### II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to comply with the maximum RVP requirement of 7.0 psia during the control period of June 1 through September 16, in violation of 30 TEX. ADMIN. CODE § 115.252(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 8, 2009. Specifically, a regular unleaded gasoline sample taken from Pump No. 1 was found to have a RVP of 7.56 psia.

#### **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: ONEOK, Inc. dba Texas Gas Service Company, Docket No. 2009-1100-AIR-E" to:

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

- 2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
- 3. 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.
- 4. 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.
- 5. 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.

ONEOK, Inc. dba Texas Gas Service Company DOCKET NO. 2009-1100-AIR-E Page 4

## SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Executive Director

11/12/2009 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.

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Name (Printed or typed) Authorized Representative of ONEOK, Inc. dba Texas Gas Service Company

Sept. 30, 2009 Date Director of Operations

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.