

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0601-PST-E **TCEQ ID:** RN101876183 **CASE NO.:** 39518
RESPONDENT NAME: ISSN ENTERPRISES, INC. dba Nick's Grocery

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

SITE WHERE VIOLATION(S) OCCURRED: Nick's Grocery, 4706 West Orange Street, Pearland, Brazoria County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on October 11, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: Mr. Mehdi Sonesra, President, ISSN ENTERPRISES, INC., 4706 West Orange Street, Pearland, Texas 77581-3204

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 27, 2010</p> <p>Date of NOV/NOE Relating to this Case: April 9, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed underground storage tank registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2006 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>3) 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, the Respondent accepted one delivery of fuel without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>4) Failed to ensure that all USTs are monitored in a manner which will</p>	<p>Total Assessed: \$23,787</p> <p>Total Deferred: \$4,757 <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: \$550 (remaining \$18,480 due in 35 monthly payments of \$528 each)</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Site 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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Completed the Stage II Station representative training and provided in-house Stage II vapor recovery awareness training to all current employees on March 18, 2010;</p> <p>b. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on May 7, 2010;</p> <p>c. Implemented statistical inventory reconciliation and inventory control as a release detection method for all USTs on March 1, 2010;</p> <p>d. Successfully tested the line leak detectors for performance and operational reliability on February 15, 2010;</p> <p>e. Began conducting recording daily inventory volume measurement and monthly reconciliation of inventory control records on March 1, 2010;</p> <p>f. Obtained insurance coverage for all USTs on January 29, 2010;</p> <p>g. Began conducting daily inspections of the Stage II vapor recovery system on March 1, 2010;</p> <p>h. Successfully conducted the required annual and triennial testing of the Stage II equipment on February 15, 2010;</p> <p>i. Successfully conducted the required triennial testing of the cathodic protection system May 7, 2010;</p> <p>j. Began conducting effective manual or automatic inventory control procedures for all USTs on March 1, 2010;</p> <p>k. Upgraded the Stage II equipment to an ORVR compatible system on March</p>

<p>detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>6) Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>7) Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>8) Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>9) Failed to conduct daily inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>10) 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. Specifically, the Respondent did not conduct the required Stage II testing by the due date of August 17, 2007 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>11) Failed to inspect and test the cathodic protection system for</p>		<p>1, 2010;</p> <p>l. Began maintaining overfill prevention records at the Station on February 15, 2010; and</p> <p>m. Began conducting bimonthly inspections of all sumps, manways, overfill containers on March 1, 2010.</p>
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<p>operability and adequacy of protection at a subsequent frequency of at least once every three years. Specifically, the triennial test had not been conducted [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].</p> <p>12) Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>13) Failed to upgrade the Stage II equipment to an onboard refueling vapor recovery ("ORVR") compatible system [30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>14) Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, overfill prevention records were not available for review [30 TEX. ADMIN. CODE §§ 334.10(b) and 334.51(c)(2)].</p> <p>15) Failed to inspect all sumps including the dispenser sumps, manways, overspill containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris [30 TEX. ADMIN. CODE § 334.42(i)].</p>		
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Additional ID No(s): PST Facility ID No. 31140



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Apr-2010	Screening	15-Apr-2010	EPA Due	
	PCW	19-Apr-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	ISSN ENTERPRISES, INC. dba Nick's Grocery
Reg. Ent. Ref. No.	RN101876183
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39518	No. of Violations	12
Docket No.	2010-0601-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **\$22,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 7.0% Enhancement *Subtotals 2, 3, & 7* **\$1,575**

Notes Enhancement for one Notice of Violation ("NOV") with same or similar violations and one NOV with dissimilar violations.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$4,575**

Economic Benefit 0.0% Enhancement *Subtotal 6* **\$0**

Total EB Amounts	\$4,314	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$8,980	

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$19,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE 22.0% *Adjustment* **\$4,287**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2, 4, 5, 6, 7, 8, and 12.

Final Penalty Amount **\$23,787**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$23,787**

DEFERRAL 20.0% Reduction *Adjustment* **-\$4,757**

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

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$19,030**

Screening Date: 15-Apr-2010

Docket No.: 2010-0601-PST-E

PCW

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No.: 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101876183

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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) 7%

>> 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 Notice of Violation ("NOV") with same or similar violations and one NOV with dissimilar violations.

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

Screening Date 15-Apr-2010

Docket No. 2010-0601-PST-E

PCW

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Judy Kluge

Violation Number: 1

Rule Cite(s)

30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> 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 1

50 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the January 27, 2010 investigation to the March 18, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent came into compliance on March 18, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No: 39518

Reg. Ent. Reference No: RN101876183

Media: Petroleum Storage Tank

Violation No: 1

Percent Interest	Years of Depreciation
6.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<i>(No commas or \$)</i>							

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	\$500	27-Jan-2010	18-Mar-2010	0.14	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of training a Stage II Station representative and conducting in-house employee Stage II training. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$3

Screening Date 15-Apr-2010

Docket No. 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Judy Kluge

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description

Failed to timely 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 August 31, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

1323 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$4,000

Four annual events are recommended based on documentation of the violation during the January 27, 2010 investigation.

Good Faith Efforts to Comply

10.0% Reduction

\$400

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

Notes

The Respondent came into compliance on May 7, 2010 after the NOE dated April 9, 2010.

Violation Subtotal \$3,600

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$368

Violation Final Penalty Total \$4,733

This violation Final Assessed Penalty (adjusted for limits) \$4,733

Economic Benefit Worksheet

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No.: 39518

Reg. Ent. Reference No.: RN101876183

Media: Petroleum Storage Tank

Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No entries 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	27-Jan-2010	7-May-2010	0.27	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration and obtain a current TCEQ delivery certificate. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	1-Aug-2006	27-Jan-2010	4.41	\$66	\$300	\$366
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The estimated avoided cost (\$100 per full year) to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate. The date required is 30 days prior to the expiration date of the delivery certificate and the final date is the date of the investigation.

Approx. Cost of Compliance

\$400

TOTAL

\$368

Screening Date 15-Apr-2010

Docket No. 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101876183

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(5)(A)(I) and Tex. Water Code § 26.3487(a)

Violation Description

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, the Respondent accepted one delivery of fuel without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				5%
Potential			X	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction Before NOV NOV to EDRP/Settlement Offer \$50

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent came into compliance on May 7, 2010 after the NOE dated April 9, 2010.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$592

This violation Final Assessed Penalty (adjusted for limits) \$592

Economic Benefit Worksheet

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No. 39518

Reg. Ent. Reference No. RN101876183

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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. 2.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 15-Apr-2010

Docket No. 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2)(A)(i)(III), (d)(1)(B)(ii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 33

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

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the January 27, 2010 investigation to the March 1, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$625

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on March 1, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$501

Violation Final Penalty Total \$2,501

This violation Final Assessed Penalty (adjusted for limits) \$2,501

Economic Benefit Worksheet

Respondent ISSN ENTERPRISES, INC. d/ba Nick's Grocery
Case ID No. 39518
Reg. Ent. Reference No. RN101876183
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

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)	\$1,500	27-Jan-2010	1-Mar-2010	0.09	\$7	n/a	\$7

Notes for DELAYED costs

The estimated cost of monitoring the USTs for releases, including recording daily inventory volume measurement, and monthly reconciliation of inventory control records. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

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]	\$450	27-Jan-2009	15-Feb-2010	1.97	\$44	\$450	\$494
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for testing the line leak detectors per invoice submitted. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$1,950

TOTAL

\$501

Screening Date 15-Apr-2010

Docket No. 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 365

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

Violation Base Penalty \$3,000

Three single events are recommended (one event per UST).

Good Faith Efforts to Comply

25.0% Reduction \$750

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

Notes The Respondent came into compliance on January 29, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Estimated EB Amount \$2,048

Statutory Limit Test

Violation Final Penalty Total \$3,001

This violation Final Assessed Penalty (adjusted for limits) \$3,001

Economic Benefit Worksheet

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery
Case ID No. 39518
Reg. Ent. Reference No. RN101876183
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$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]	\$1,950	27-Jan-2009	29-Jan-2010	1.00	\$98	\$1,950	\$2,048
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum USTs (at \$650 per tank). The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$1,950

TOTAL

\$2,048

Screening Date 15-Apr-2010

Docket No: 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 115.244(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to conduct daily inspections of the Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> 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

1

33 Number of violation days

mark only one with an x

daily	
weekly	
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 January 27, 2010 investigation to the March 1, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent came into compliance on March 1, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$369

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No.: 39518

Reg. Ent. Reference No.: RN101876183

Media: Petroleum Storage Tank

Violation No.: 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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]	\$350	28-Dec-2009	1-Mar-2010	1.09	\$19	\$350	\$369
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct inspections of the Stage II system. The date required is one month prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$350

TOTAL

\$369

Screening Date 15-Apr-2010

Docket No. 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 7

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. Specifically, the Respondent did not conduct the required Stage II testing by the due date of August 17, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> 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

\$2,500

Violation Events

1

913 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended for the three-year period preceding the January 27, 2010 investigation.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent came into compliance on February 15, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$299

Violation Final Penalty Total \$2,501

This violation Final Assessed Penalty (adjusted for limits) \$2,501

Economic Benefit Worksheet

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No. 39518

Reg. Ent. Reference No. RN101876183

Media: Petroleum Storage Tank

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

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]	\$255	17-Aug-2007	15-Feb-2010	3.42	\$44	\$255	\$299
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for conducting the required Stage II testing per invoice submitted. The date required is the date the test was due and the final date is the compliance date.

Approx. Cost of Compliance

\$255

TOTAL

\$299

Screening Date 15-Apr-2010

Docket No. 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 334.49(c)(4) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> 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

\$2,500

Violation Events

Number of Violation Events 1

78 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the January 27, 2010 investigation to the April 15, 2010 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes

The Respondent came into compliance on May 7, 2010 after the NOE dated April 9, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$605

Violation Final Penalty Total \$2,958

This violation Final Assessed Penalty (adjusted for limits) \$2,958

Economic Benefit Worksheet

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No.: 39518

Reg. Ent. Reference No.: RN101876183

Media: Petroleum Storage Tank

Violation No.: 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	---	---------------	------------	-----	----------------	---------------	-----------

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]	\$500	27-Jan-2007	7-May-2010	4.19	\$105	\$500	\$605
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for completing the triennial testing. The date required is three years before the investigation and the final date is the compliance date.

Approx. Cost of Compliance

\$500

TOTAL

\$605

Screening Date 15-Apr-2010

Docket No. 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN101876183

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 9

Rule Cite(s)

30 Tex. Admin. Code § 334.48(c)

Violation Description

Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

\$2,500

Violation Events

Number of Violation Events 1 33 Number of violation days

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

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the January 27, 2010 investigation to the March 1, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction \$625

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

Notes The Respondent came into compliance on March 1, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Estimated EB Amount \$2

Statutory Limit Test

Violation Final Penalty Total \$2,501

This violation Final Assessed Penalty (adjusted for limits) \$2,501

Economic Benefit Worksheet

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No. 39518

Reg. Ent. Reference No. RN101876183

Media Petroleum Storage Tank

Violation No. 9

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	\$500	27-Jan-2010	1-Mar-2010	0.09	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct inventory control for the USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$2

Screening Date 15-Apr-2010

Docket No: 2010-0601-PST-E

PCW

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 10

Rule Cite(s)

30 Tex. Admin. Code § 115.242(1)(C) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> 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 1

33 Number of violation days

mark only one with an x

daily	
weekly	
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 January 27, 2010 investigation to the March 1, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent came into compliance on March 1, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$12

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery
Case ID No.: 39518
Reg. Ent. Reference No.: RN101876183
Media: Petroleum Storage Tank
Violation No.: 10

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	\$1,975	27-Jan-2010	1-Mar-2010	0.09	\$1	\$12	\$12
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

Actual cost to upgrade the Stage II equipment to ORVR compatible systems. The date required is the investigation date and the final date is the compliance date.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,975

TOTAL

\$12

Screening Date 15-Apr-2010

Docket No: 2010-0601-PST-E

PCW

Respondent ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No. 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101876183

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator Judy Kluge

V12

11

Rule Cite(s)

30 Tex. Admin. Code §§ 334.10(b) and 334.51(c)(2)

Violation Description

Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, overfill prevention records were not available for review.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

19 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the January 27, 2010 investigation.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes: The Respondent came into compliance on February 15, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No.: 39518

Reg. Ent. Reference No.: RN101876183

Media: Petroleum Storage Tank

Violation No.: 11

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	27-Jan-2010	15-Feb-2010	0.05	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date: 15-Apr-2010

Docket No.: 2010-0601-PST-E

PCW

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Policy Revision 2 (September 2002)

Case ID No.: 39518

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101876183

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Judy Kluge

Violation Number: 12

Rule Cite(s):

30 Tex. Admin. Code § 334.42(l)

Violation Description:

Failed to inspect all sumps including the dispenser sumps, manways, overspill containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent: 10%

>> 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: 1

Number of violation days: 33

mark only one with an x

daily	
weekly	
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 January 27, 2010 investigation to the March 1, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes: The Respondent came into compliance on March 1, 2010 prior to the NOE dated April 9, 2010.

Violation Subtotal: \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$108

Violation Final Penalty Total: \$1,000

This violation Final Assessed Penalty (adjusted for limits): \$1,000

Economic Benefit Worksheet

Respondent: ISSN ENTERPRISES, INC. dba Nick's Grocery

Case ID No: 39518

Reg. Ent. Reference No: RN101876183

Media: Petroleum Storage Tank

Violation No.: 12

Percent Interest	Years of Depreciation
5.0	16

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	27-Nov-2009	1-Mar-2010	1.18	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of the sumps, manways, overflow containers or catchment basins. The date required is 60 days before the investigation and the final date is the compliance date.

Approx. Cost of Compliance

\$100

TOTAL

\$106

Compliance History Report

Customer/Respondent/Owner-Operator: CN602848533 ISSN ENTERPRISES, INC. Classification: AVERAGE Rating: 4.00
Regulated Entity: RN101876183 NICK'S GROCERY Classification: AVERAGE Site Rating: 4.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 31140
Location: 4706 W ORANGE ST, PEARLAND, TX, 77581
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: April 14, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 14, 2005 to April 14, 2010

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

Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? ISSN Enterprises, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)? Pearland Enterprises, Inc.
5. When did the change(s) in owner or operator occur? 05/15/2005
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 09/27/2005 (404086)

2 10/17/2006 (515063)

3 04/09/2010 (791402)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/27/2005 (404086)

CN602848533

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)

Description: No Stage II training records available for review.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)

Description: No daily Stage II inspection records available for review at the time of the investigation.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: No Stage I swivel adapters installed.

Date: 10/17/2006 (515063)

CN602848533

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failure to anchor shear valves.

- 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
ISSN ENTERPRISES, INC. DBA
NICK'S GROCERY
RN101876183

§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0601-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 ISSN ENTERPRISES, INC. dba Nick's Grocery ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 4706 West Orange Street in Pearland, Brazoria County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 14, 2010.
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 Twenty-Three Thousand Seven Hundred Eighty-Seven Dollars (\$23,787) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Hundred Fifty Dollars (\$550) of the administrative penalty and Four Thousand Seven Hundred Fifty-Seven Dollars (\$4,757) is deferred contingent upon Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Respondent to pay all or part of the deferred penalty.

The remaining amount of Eighteen Thousand Four Hundred Eighty Dollars (\$18,480) of the administrative penalty shall be payable in 35 monthly payments of Five Hundred Twenty-Eight Dollars (\$528) 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 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 Respondent to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Completed the Stage II Station representative training and provided in-house Stage II vapor recovery awareness training to all current employees on March 18, 2010;
 - b. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on May 7, 2010;
 - c. Implemented statistical inventory reconciliation and inventory control as a release detection method for all USTs on March 1, 2010;
 - d. Successfully tested the line leak detectors for performance and operational reliability on February 15, 2010;
 - e. Began conducting recording daily inventory volume measurement and monthly reconciliation of inventory control records on March 1, 2010;
 - f. Obtained insurance coverage for all USTs on January 29, 2010;
 - g. Began conducting daily inspections of the Stage II vapor recovery system on March 1, 2010;

- h. Successfully conducted the required annual and triennial testing of the Stage II equipment on February 15, 2010;
 - i. Successfully conducted the required triennial testing of the cathodic protection system May 7, 2010;
 - j. Began conducting effective manual or automatic inventory control procedures for all USTs on March 1, 2010;
 - k. Upgraded the Stage II equipment to an onboard refueling vapor recovery ("ORVR") compatible system on March 1, 2010;
 - l. Began maintaining overfill prevention records at the Station on February 15, 2010; and
 - m. Began conducting bimonthly inspections of all sumps, manways, overfill containers on March 1, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 27, 2010.
2. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed underground storage tank 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 January 27, 2010. Specifically, the delivery certificate expired on August 31, 2006.
3. 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 January 27, 2010. Specifically, the Respondent accepted one delivery of fuel without a delivery certificate.
4. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on January 27, 2010.
 5. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on January 27, 2010. Specifically, the line leak detectors had not been performance tested annually
 6. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on January 27, 2010.
 7. Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on January 27, 2010.
 8. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on January 27, 2010.
 9. Failed to conduct daily inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 27, 2010.
 10. 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, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 27, 2010. Specifically, the Respondent did not conduct the required Stage II testing by the due date of August 17, 2007.
 11. Failed inspect and test the cathodic protection system for operability and adequacy of protection at a subsequent frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on January 27, 2010. Specifically, the triennial test had not been conducted.
 12. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX.

ADMIN. CODE § 334.48(c), as documented during an investigation conducted on January 27, 2010.

13. Failed to upgrade the Stage II equipment to ORVR compatible systems, in violation of 30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on January 27, 2010.
14. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE §§ 334.10(b) and 334.51(c)(2), as documented during an investigation conducted on January 27, 2010. Specifically, overfill prevention records were not available for review.
15. Failed to inspect all sumps including the dispenser sumps, manways, overspill containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight and free of any liquid or debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on January 27, 2010.

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: ISSN ENTERPRISES, INC. dba Nick's Grocery, Docket No. 2010-0601-PST-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

- after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
 5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
 6. This 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.
 7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

ISSN ENTERPRISES, INC. dba Nick's Grocery
DOCKET NO. 2010-0601-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Sallee
For the Executive Director

9/21/2010
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.

Mehdi Sonesra
Signature

9/13/10
Date

MEHDI SONESRA
Name (Printed or typed)
Authorized Representative of
ISSN ENTERPRISES, INC. dba Nick's Grocery

PRESIDENT
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.

