

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1273-PST-E TCEQ ID: RN101432672 CASE NO.: 38110

RESPONDENT NAME: LEO GROUP, INC. dba Broadway 610 Gas & Go

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Broadway 610 Gas & Go, 2709 Broadway Street, Houston, Harris County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 25, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Brianna Carlson, Enforcement Division, Enforcement Team 7, MC R-15, (956) 430-6021; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Layth Omran, Vice-President, LEO GROUP, INC., 2709 Broadway Street, Houston, Texas 77017 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input 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: July 16, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 23, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(a)].</p> <p>2) Failure to provide proper release detection for the piping associated with the UST system [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>4) Failure to verify proper operation of the Stage II equipment at least once every 12 months, and vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual system compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$8,184</p> <p>Total Deferred: \$1,636 <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: \$248 (remaining \$6,300 due in 35 monthly payments of \$180 each)</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input 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. Implemented a release detection method for all USTs at the Station on July 17, 2009;</p> <p>b. Successfully tested the piping tightness and line leak detectors for performance and operational reliability on July 17, 2009; and</p> <p>c. Conducted the required annual testing of the Stage II equipment on July 17, 2009.</p>

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

TCEQ	DATES	Assigned 27-Jul-2009			
	PCW	22-Oct-2009	Screening	10-Aug-2009	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	LEO GROUP, INC. dba Broadway 610 Gas & Go		
Reg. Ent. Ref. No.	RN101432672		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38110	No. of Violations	2
Docket No.	2009-1273-PST-E	Order Type	1600
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>		\$10,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	-10.0% Reduction	<i>Subtotals 2, 3, & 7</i>	-\$1,000
Notes	Reduction due to high performer classification.		
Culpability	No 0.0% Enhancement	<i>Subtotal 4</i>	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		<i>Subtotal 5</i>	\$2,500
Economic Benefit	0.0% Enhancement	<i>Subtotal 6</i>	\$0
Total EB Amounts	\$1,685	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$3,460		
SUM OF SUBTOTALS 1-7		<i>Final Subtotal</i>	\$6,500
OTHER FACTORS AS JUSTICE MAY REQUIRE		25.9% Adjustment	\$1,684
Reduces or enhances the Final Subtotal by the indicated percentage.			
Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 2.		
Final Penalty Amount			\$8,184
STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i>	\$8,184
DEFERRAL		20.0% Reduction Adjustment	-\$1,636
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			\$6,548

Screening Date: 10-Aug-2009

Docket No.: 2009-1273-PST-E

PCW

Respondent: LEO GROUP, INC. dba Broadway 610 Gas & Go

Policy Revision 2 (September 2002)

Case ID No.: 38110

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101432672

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Brianna Carlson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of..	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Reduction due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 10-Aug-2009	Docket No. 2009-1273-PST-E	PCW		
Respondent LEO GROUP, INC. dba Broadway 610 Gas & Go		<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 38110		<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN101432872				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Brianna Carlson				
Violation Number	<input type="text" value="1"/>			
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), and (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) and (c)(1)			
Violation Description	Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide proper release detection for the piping associated with the UST system. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.			
Base Penalty		<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Percent		<input type="text" value="50%"/>		
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent		<input type="text" value="0%"/>		
Matrix Notes	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		<input type="text" value="\$5,000"/>		
		<input type="text" value="\$5,000"/>		
Violation Events				
Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="1"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$5,000"/>	
	weekly	<input type="text"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
One monthly event is recommended based on documentation of the violation during the July 16, 2009 investigation to the July 17, 2009 compliance date.				
Good Faith Efforts to Comply		25.0% Reduction	<input type="text" value="\$1,250"/>	
	Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>		
Ordinary	<input checked="" type="checkbox"/>	<input type="text"/>		
N/A	<small>(mark with x)</small>			
Notes	The Respondent came into compliance on July 17, 2009, prior to the NOE dated July 23, 2009.			
Violation Subtotal		<input type="text" value="\$3,750"/>		
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount	<input type="text" value="\$548"/>	Violation Final Penalty Total	<input type="text" value="\$4,092"/>	
This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$4,092"/>		

Economic Benefit Worksheet

Respondent: LEO GROUP, INC. dba Broadway 610 Gas & Go
Case ID No.: 38110
Reg. Ent. Reference No.: RN101432672
Media: Petroleum Storage Tank
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$2,000	16-Jul-2009	17-Jul-2009	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to provide release detection for the LUST system. 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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	16-Jul-2008	17-Jul-2009	1.92	\$48	\$600	\$548
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost of conducting the piping tightness and line leak detector tests. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$2,500

TOTAL

\$548

Screening Date 10-Aug-2009 **Docket No.** 2009-1273-PST-E **PCW**
Respondent LEO GROUP, INC. dba Broadway 610 Gas & Go *Policy Revision 2 (September 2002)*
Case ID No. 38110 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101432672
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Brianna Carlson

Violation Number 2
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 vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				50%
	Potential	x			

>> Programmatic Matrix

OR	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 \$5,000

Adjustment \$5,000

Violation Events

Number of Violation Events 1 **Number of violation days** 1095
Violation Base Penalty \$5,000

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

One single event is recommended for the three-year period preceding the July 16, 2009 investigation.

Good Faith Efforts to Comply 25.0% Reduction \$1,250

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

Notes The Respondent came into compliance on July 17, 2009, prior to the NOE dated July 23, 2009.
Violation Subtotal \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$1,136 **Violation Final Penalty Total** \$4,092
This violation Final Assessed Penalty (adjusted for limits) \$4,092

Economic Benefit Worksheet

Respondent: LED GROUP, INC. dba Broadway 610 Gas & Go
Case ID No.: 38110
Reg. Ent. Reference No.: RN101432872
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 commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	0.00			0.00	\$0	\$0	\$0
Buildings	0.00			0.00	\$0	\$0	\$0
Other (as needed)	0.00			0.00	\$0	\$0	\$0
Engineering/construction	0.00			0.00	\$0	\$0	\$0
Land	0.00			0.00	\$0	n/a	\$0
Record Keeping System	0.00			0.00	\$0	n/a	\$0
Training/Sampling	0.00			0.00	\$0	n/a	\$0
Remediation/Disposal	0.00			0.00	\$0	n/a	\$0
Permit Costs	0.00			0.00	\$0	n/a	\$0
Other (as needed)	0.00			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)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal	0.00			0.00	\$0	\$0	\$0
Personnel	0.00			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	0.00			0.00	\$0	\$0	\$0
Supplies/equipment	0.00			0.00	\$0	\$0	\$0
Financial Assurance [2]	0.00			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$950	16-Jul-2006	17-Jul-2009	3.92	\$186	\$950	\$1,136
Other (as needed)	0.00			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost for annual and triennial testing to verify proper operation of the Stage II equipment. The date required is three years prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$950

TOTAL

\$1,136

Compliance History Report

Customer/Respondent/Owner-Operator: CN603461138 LEO GROUP, INC. Classification: HIGH Rating: 0.00
Regulated Entity: RN101432672 Broadway 610 Gas & Go Classification: HIGH Site Rating: 0.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 40591
REGISTRATION

Location: 2709 BROADWAY ST, HOUSTON, TX 77017

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 10, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 10, 2004 to August 10, 2009

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

Name: Brianna Carlson Phone: 956/430-6021

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?

OPR	Leo Group, Inc.
OWN	Taz Taz, Inc.
4. If Yes, who was/were the prior owner(s)/operator(s)?

OWN	SAAD, TALAL
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5. When did the change(s) in owner or operator occur?

09/18/2007	OWN	SAAD, TALAL
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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 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	08/17/2005	(400221)
2	07/23/2009	(763012)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- 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
LEO GROUP, INC. DBA BROADWAY
610 GAS & GO
RN101432672

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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1273-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 LEO GROUP, INC. dba Broadway 610 Gas & Go ("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 operates a convenience store with retail sales of gasoline at 2709 Broadway Street in Houston, Harris County, Texas (the "Station").
2. The Respondent's four 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 July 28, 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 Eight Thousand One Hundred Eighty-Four Dollars (\$8,184) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Forty-Eight Dollars (\$248) of the administrative penalty and One Thousand Six Hundred Thirty-Six Dollars (\$1,636) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Three Hundred Dollars (\$6,300) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Eighty Dollars (\$180) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Implemented a release detection method for all USTs at the Station on July 17, 2009;
 - b. Successfully tested the piping tightness and line leak detectors for performance and operational reliability on July 17, 2009; and
 - c. Conducted the required annual testing of the Stage II equipment on July 17, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 16, 2009.
2. Failed to provide proper release detection for the piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on July 16, 2009.
3. 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 July 16, 2009.
4. Failed to verify proper operation of the Stage II equipment at least once every 12 months, and vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 16, 2009. Specifically, the Stage II annual system compliance testing had not been conducted.

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: LEO GROUP, INC. dba Broadway 610 Gas & Go, Docket No. 2009-1273-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 Repondent 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 Repondent's failure to comply is not a violation of this Agreed Order. The Repondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Repondent shall notify the Executive Director within seven days after the Repondent 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.

add
BRAYAN

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szolien

For the Executive Director

1/19/2010
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.

[Signature]

Signature

11-12-09

Date

Iaxth OMvan

Name (Printed or typed)
Authorized Representative of
LEO GROUP, INC. dba Broadway 610 Gas & Go

Owner

Title

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

