

| VIOLATION SUMMARY CHART: | | |
|--|--|--|
| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: October 8, 2008</p> <p>Date of NOE Relating to this Case: November 21, 2008</p> <p>Background Facts: The EDPRP was filed on October 6, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on October 8, 2009. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent no longer owns the Station.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)]. Failed to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition, and failed to obtain a new delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of ownership change [30 TEX. ADMIN. CODE §§ 334.7(d)(3), and 334.8(c)(4)(B) and (C)]. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)]. 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 the petroleum UST [30 TEX. ADMIN. CODE § 37.815(a) and (b)]. | <p>Total Assessed: \$16,519</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$16,519</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order</p> <p>Site Compliance History Classification: Average</p> <p>Person Compliance History Classification: Average</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 ED recognizes that Respondent no longer owns the Station.</p> |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|------------------------|-----------------------------------|
| <p>5. Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) and to provide proper release detection for the pressurized piping associated with the UST; failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I)].</p> <p>6. Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>7. Failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1) and (7)(A)].</p> <p>8. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.244(1) and (3)].</p> <p>9. Failed to verify proper operation of the Stage II equipment at least once every 12 months and perform the Stage II vapor space manifolding and dynamic back pressure tests at least once every 36 months and upon major system replacement or modification [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2)].</p> | | |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 24-Nov-2008 | | | |
| | PCW | 24-Apr-2009 | Screening | 16-Dec-2008 | EPA Due |

| | |
|--|----------------------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Romelio Flores dba Super Stop 30 |
| Reg. Ent. Ref. No. | RN100810746 |
| Facility/Site Region | 6-El Paso |
| Major/Minor Source | Minor |

| | | | |
|--|------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 36941 | No. of Violations | 9 |
| Docket No. | 2008-1934-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Steven Lopez |
| | | 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 | \$13,000 |
|---|-------------------|-----------------|

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% Enhancement | Subtotals 2, 3, & 7 | \$1,300 |
|---------------------------|-------------------|--------------------------------|----------------|

Notes: Respondent received two Notices of Violation with same or similar violations to those in the instant case.

| | | | | |
|--------------------|----|------------------|-------------------|------------|
| 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 | \$0 |
|--|-------------------|------------|

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

Total EB Amounts: \$2,343
 Approx. Cost of Compliance: \$5,100
 *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|-----------------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$14,300 |
|-----------------------------|-----------------------|-----------------|

| | | | |
|---|-------|-------------------|----------------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 15.5% | Adjustment | \$2,219 |
|---|-------|-------------------|----------------|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to recover avoided costs.

| | |
|-----------------------------|-----------------|
| Final Penalty Amount | \$16,519 |
|-----------------------------|-----------------|

| | | |
|-----------------------------------|-------------------------------|-----------------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$16,519 |
|-----------------------------------|-------------------------------|-----------------|

| | | | |
|-----------------|----------------|-------------------|------------|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|------------|

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

Notes: Deferral not offered for non-expedited settlement.

| | |
|------------------------|-----------------|
| PAYABLE PENALTY | \$16,519 |
|------------------------|-----------------|

Screening Date 16-Dec-2008

Docket No. 2008-1934-PST-E

PCW

Respondent Romelio Flores dba Super Stop 30

Policy Revision 2 (September 2002)

Case ID No. 36941

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100810746

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

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) | 2 | 10% |
| | 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) 10%

>> 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

Respondent received two Notices of Violation with same or similar violations to those in the instant case.

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

Screening Date 16-Dec-2008 **Docket No.** 2008-1934-PST-E **PCW**
Respondent Romelio Flores dba Super Stop 30 *Policy Revision 2 (September 2002)*
Case ID No. 36941 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100810746
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|----------------------|----------------------|----------------------|----------------------|---------|
| | | Major | Moderate | Minor | |
| | | Actual | <input type="text"/> | <input type="text"/> | |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Major | Moderate | Minor | Percent |
|--------------|----------------------|---|----------------------|----------------------|---------|
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | |

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

| | Before NOV | NOV to EDRP/Settlement Offer |
|----------|---|------------------------------|
| | Extraordinary | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input checked="" type="text" value="x"/> | (mark with x) |

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
Media Petroleum Storage Tank
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| 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 | \$500 | 8-Oct-2008 | 15-Jun-2009 | 0.68 | \$17 | n/a | \$17 |
| 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 date of investigation. The Final Date is the estimated 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] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$17

Screening Date 16-Dec-2008 **Docket No.** 2008-1934-PST-E **PCW**
Respondent Romelio Flores dba Super Stop 30 *Policy Revision 2 (September 2002)*
Case ID No. 36941 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100810746
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|-----------|----------------------|----------------------|----------------------|----------------------|---------------------------------|
| | | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|---|----------------------|----------------------|----------------------------------|
| | <input type="text"/> | <input checked="" type="text" value="x"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="10%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Good Faith Efforts to Comply Reduction

| | Before NOV | NOV to EDRP/Settlement Offer |
|---------------|---|------------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <input type="text"/> |
| N/A | <input checked="" type="text" value="x"/> | (mark with x) |

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
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

| | | | | | | | |
|--------------------------|-------|-------------|-------------|------|------|-----|------|
| 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 | 28-May-2006 | 15-Jul-2009 | 3.13 | \$16 | n/a | \$16 |

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration and obtain a new delivery certificate. The Date Required is the date the self-certification was due based on the date of ownership change. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

| | |
|--|-------|
| | \$100 |
|--|-------|

TOTAL

| | |
|--|------|
| | \$16 |
|--|------|

Screening Date 16-Dec-2008 **Docket No.** 2008-1934-PST-E **PCW**
Respondent Romelio Flores dba Super Stop 30 *Policy Revision 2 (September 2002)*
Case ID No. 36941 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100810746
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(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 UST. Specifically, the Respondent received a delivery of fuel without a delivery certificate, as documented during the investigation on October 8, 2008.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | 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 1 933 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

mark only one with an x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

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

Estimated EB Amount \$0 Violation Final Penalty Total \$635

This violation Final Assessed Penalty (adjusted for limits) \$635

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| 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 16-Dec-2008 **Docket No.** 2008-1934-PST-E **PCW**
Respondent Romelio Flores dba Super Stop 30 *Policy Revision 2 (September 2002)*
Case ID No. 36941 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100810746
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 4

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 the petroleum UST.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| | | | | | |
|----|----------------|-------|----------|-------|-------------------|
| OR | Harm | | | | Percent 0% |
| | Release | Major | Moderate | Minor | |
| | Actual | | | | |
| | Potential | | | | |

>> Programmatic Matrix

| | | | | | |
|--|----------------------|-------|----------|-------|--------------------|
| | Falsification | Major | Moderate | Minor | Percent 10% |
| | | x | | | |

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 963 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 (for the one tank) is recommended based upon documentation of the violation during the October 8, 2008 investigation.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

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

Estimated EB Amount \$683 **Violation Final Penalty Total** \$1,271

This violation Final Assessed Penalty (adjusted for limits) \$1,271

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
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) | | | | 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] | \$650 | 8-Oct-2007 | 8-Oct-2008 | 1.00 | \$33 | \$650 | \$683 |
| 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 one UST. The Date Required is one year prior to the investigation date. The Final Date is the investigation date.

Approx. Cost of Compliance

\$650

TOTAL

\$683

Screening Date 16-Dec-2008 Docket No. 2008-1934-PST-E PCW

Respondent Romelio Flores dba Super Stop 30 Policy Revision 2 (September 2002)

Case ID No. 36941 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100810746

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 5

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

Violation Description Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) and to provide proper release detection for the pressurized piping associated with the UST. Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also 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

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: 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 69 Number of violation days

Table with frequency options: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of October 8, 2008 to the screening date of December 16, 2008.

Good Faith Efforts to Comply 0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$58 Violation Final Penalty Total \$3,177

This violation Final Assessed Penalty (adjusted for limits) \$3,177

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
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) | \$1,500 | 8-Oct-2008 | 15-Jul-2009 | 0.77 | \$58 | n/a | \$58 |

Notes for DELAYED costs

Estimated cost to provide release detection for the UST system, including volume measurement and reconciliation of inventory control records. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$58

Screening Date 16-Dec-2008 **Docket No.** 2008-1934-PST-E **PCW**
Respondent Romelio Flores dba Super Stop 30 *Policy Revision 2 (September 2002)*
Case ID No. 36941 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100810746
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)
Violation Description Failed to conduct effective manual or automatic inventory control procedures for the UST system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 25% |
| | Potential | x | | | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
| | | | | | 0% |

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

| | | | | |
|--------------------------------|--------------|---|----|--------------------------|
| | | 1 | 69 | Number of violation days |
| <i>mark only one with an x</i> | daily | | | |
| | weekly | | | |
| | monthly | | | |
| | quarterly | x | | |
| | semiannual | | | |
| | annual | | | |
| | single event | | | |

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of October 8, 2008 to the screening date of December 16, 2008.

Good Faith Efforts to Comply

| | | | |
|---------------|------|---------------|-------------------------------|
| | 0.0% | Reduction | \$0 |
| | | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | | | |
| Ordinary | | | |
| N/A | x | (mark with x) | |

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$3,177

This violation Final Assessed Penalty (adjusted for limits) \$3,177

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
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 | \$500 | 8-Oct-2008 | 15-Jun-2009 | 0.68 | \$17 | n/a | \$17 |
| 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 proper inventory control procedures. The Date Required is the date of the investigation. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$17

Screening Date 16-Dec-2008 **Docket No.** 2008-1934-PST-E **PCW**
Respondent Romelio Flores dba Super Stop 30 *Policy Revision 2 (September 2002)*
Case ID No. 36941 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100810746
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 7

Rule Cite(s) 30 Tex. Admin Code § 115.246(1) and (7)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel. Specifically, a copy of the correct California Air Resources Board Executive Order for the Stage II vapor recovery system was not kept on-site and no other records were immediately available for review during the investigation on October 8, 2008.

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

1 69 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 upon the documentation of the violation during the October 8, 2008 investigation.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

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

Estimated EB Amount \$17 **Violation Final Penalty Total** \$1,271

This violation Final Assessed Penalty (adjusted for limits) \$1,271

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
Media Petroleum Storage Tank
Violation No. 7

| 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 | 8-Oct-2008 | 15-Jun-2009 | 0.68 | \$17 | n/a | \$17 |
| 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 Stage II records at the Station. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$17

Screening Date 16-Dec-2008 **Docket No.** 2008-1934-PST-E **PCW**
Respondent Romelio Flores dba Super Stop 30 *Policy Revision 2 (September 2002)*
Case ID No. 36941 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100810746
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code § 115.244(1) and (3) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 10% |
| | Potential | | x | | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
| | | | | | 0% |

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 69 Number of violation days

| | | |
|--------------------------------|--------------|---|
| <i>mark only one with an x</i> | daily | |
| | weekly | |
| | monthly | |
| | quarterly | x |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended from the investigation date of October 8, 2008 to the screening date of December 16, 2008.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

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

Estimated EB Amount \$368 **Violation Final Penalty Total** \$1,271

This violation Final Assessed Penalty (adjusted for limits) \$1,271

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
Media Petroleum Storage Tank
Violation No. 8

| 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 | 8-Sep-2008 | 8-Oct-2008 | 1.00 | \$18 | \$350 | \$368 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated cost to conduct the required inspections of the components of the Stage II vapor recovery system.
The Date Required is one month prior to the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance

\$350

TOTAL

\$368

Screening Date 16-Dec-2008 **Docket No.** 2008-1934-PST-E **PCW**
Respondent Romelio Flores dba Super Stop 30 *Policy Revision 2 (September 2002)*
Case ID No. 36941 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100810746
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 9

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 perform the Stage II vapor space manifolding and dynamic back pressure tests at least once every 36 months and upon major system replacement or modification. Specifically, the Respondent did not conduct the Stage II annual and triennial compliance testing.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| | | | | |
|----|-------------|----------|-------|--------------------|
| OR | 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 1095 Number of violation days

| | | |
|--------------------------------|--------------|---|
| <i>mark only one with an x</i> | 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 October 8, 2008 investigation.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

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

Estimated EB Amount \$1,168 **Violation Final Penalty Total** \$3,177

This violation Final Assessed Penalty (adjusted for limits) \$3,177

Economic Benefit Worksheet

Respondent Romelio Flores dba Super Stop 30
Case ID No. 36941
Reg. Ent. Reference No. RN100810746
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 | | | | 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] | \$1,000 | 28-Apr-2006 | 8-Oct-2008 | 3.37 | \$168 | \$1,000 | \$1,168 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Avoided cost for annual and triennial testing of the Stage II equipment. The Date Required is the date of ownership change. The Final Date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,168

Compliance History Report

Customer/Respondent/Owner-Operator: CN603421421 Flores, Romelio Classification: AVERAGE Rating: 1.33
Regulated Entity: RN100810746 SUPER STOP 30 Classification: AVERAGE Site Rating: 1.33
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER EE0966O
PETROLEUM STORAGE TANK REGISTRATION 71132
REGISTRATION
Location: 2329 E MISSOURI AVE, EL PASO, TX, 79903
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: January 15, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 22, 2003 to December 22, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Steven Lopez Phone: 512-239-1896

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? Romelio Flores
4. If Yes, who was/were the prior owner(s)? FUEL DEPOT, LLC
In & Out Convenience Store
Fuel Depot Inc.
5. When did the change(s) in ownership occur?
09/21/2004
10/13/2004
04/28/2006
6. Rating Date: 9/1/2008 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 08/02/2004 (283718)
 - 2 12/17/2004 (343844)
 - 3 08/27/2005 (399843)
 - 4 02/14/2006 (450524)
 - 5 06/15/2006 (458064)
 - 6 07/17/2006 (486894)
 - 7 11/28/2006 (531312)
 - 8 09/09/2008 (701615)
 - 9 11/05/2008 (705274)
 - 10 11/18/2008 (706078)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/29/2005 (399843)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)
Description: Failure to maintain records on-site and make immediately available for review upon request.

Date: 02/15/2006 (450524)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)
Description: Failure to permanently number USTs according to the Registration Form (1A, 1B).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
Description: Failure to amend the UST Registration with the following information: 1) correct facility name (Super Stop 11) and 2) remove SIR as a method of release detection if it is not being used at the facility.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)

Description: Failure to provide the following records at the time of the investigation: 1) complete proof of financial assurance (signature page missing), 2) line leak detector annual performance test results, 3) ATG monthly test results, and 4) UST installation records

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
ROMELIO FLORES DBA SUPER
STOP 30;
RN100810746**

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§
§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2008-1934-PST-E**

At its _____ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty. The respondent made the subject of this Order is Romelio Flores dba Super Stop 30 (“Romelio Flores”).

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Romelio Flores owned and operated a convenience store with retail sales of gasoline located at 2329 East Missouri Avenue, El Paso, El Paso County, Texas (the “Station”).
2. Romelio Flores’ one underground storage tank (“UST”) is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Romelio Flores’ UST contains a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on October 8, 2008, a TCEQ El Paso Regional Office investigator documented that Romelio Flores:
 - a. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.
 - b. Failed to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition, and failing to obtain a new delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of ownership change. Specifically, the registration was not

updated to reflect the current owner and operator information for the UST system: Romelio Flores became the owner of the Station on April 28, 2006, and did not obtain a delivery certificate.

- c. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST. Specifically, Romelio Flores received a delivery of fuel without a delivery certificate.
 - d. 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 the petroleum UST.
 - e. Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) and to provide proper release detection for the pressurized piping associated with the UST; failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.
 - f. Failed to conduct effective manual or automatic inventory control procedures for the UST system.
 - g. Failed to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel. Specifically, a copy of the correct California Air Resources Board Executive Order of the State II vapor recovery system was not kept on-site and no other records were immediately available for review during the investigation.
 - h. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.
 - i. Failed to verify proper operation of the Stage II equipment at least once every 12 months and perform the Stage II vapor space manifolding and dynamic back pressure tests at least once every 36 months and upon major system replacement or modification. Specifically, Romelio Flores did not conduct the Stage II annual and triennial compliance testing.
4. Romelio Flores received notice of the violations on or about November 26, 2008.
 5. The Executive Director recognizes that Romelio Flores no longer owns or operates the Station.

6. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Romelio Flores dba Super Stop 30” (the “EDPRP”) in the TCEQ Chief Clerk’s office on October 6, 2009.
7. By letter dated October 6, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Romelio Flores with notice of the EDPRP. According to the return receipt “green card,” Romelio Flores received notice of the EDPRP on October 8, 2009, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Romelio Flores received notice of the EDPRP provided by the Executive Director. Romelio Flores failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Romelio Flores is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact Number 3.a., Romelio Flores violated 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.
3. As evidenced by Finding of Fact Number 3.b., Romelio Flores violated 30 TEX. ADMIN. CODE §§ 334.7(d)(3), and 334.8(c)(4)(B) and (C) by failing to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition, and failing to obtain a new delivery certificate by submitting a properly completed UST registration and self-certification form within 30 days of ownership change.
4. As evidenced by Finding of Fact Number 3.c., Romelio Flores violated TEX. WATER CODE § 26.3467(a), and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST.
5. As evidenced by Finding of Fact Number 3.d., Romelio Flores violated 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing 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 the petroleum UST.
6. As evidenced by Finding of Fact Number 3.e., Romelio Flores violated TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A),

- (d)(1)(B)(ii), and (d)(1)(B)(iii)(I) by failing to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring) and to provide proper release detection for the pressurized piping associated with the UST; failing to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.
7. As evidenced by Finding of Fact Number 3.f., Romelio Flores violated 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST system.
 8. As evidenced by Finding of Fact Number 3.g., Romelio Flores violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1) and (7)(A) by failing to maintain Stage II records at the Station and make them available for inspection upon request by agency personnel.
 9. As evidenced by Finding of Fact Number 3.h., Romelio Flores violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.244(1) and (3) by failing to conduct daily and monthly inspections of the Stage II vapor recovery system.
 10. As evidenced by Finding of Fact Number 3.i., Romelio Flores violated TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2) by failing to verify proper operation of the Stage II equipment at least once every 12 months and perform the Stage II vapor space manifolding and dynamic back pressure tests at least once every 36 months and upon major system replacement or modification.
 11. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Romelio Flores with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
 12. As evidenced by Finding of Fact No. 8, Romelio Flores failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Romelio Flores and assess the penalty recommended by the Executive Director.
 13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Romelio Flores for violations of the Texas Water Code and the Texas Health & Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

14. An administrative penalty in the amount of sixteen thousand five hundred nineteen dollars (\$16,519.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
15. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Romelio Flores is assessed an administrative penalty in the amount of sixteen thousand five hundred nineteen dollars (\$16,519.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Romelio Flores's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Romelio Flores dba Super Stop 30; Docket No. 2008-1934-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Romelio Flores.
4. If Romelio Flores fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Romelio Flores's failure to comply is not a violation of this Order. Romelio Flores shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Romelio Flores shall notify the Executive Director within seven days after Romelio Flores becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated

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

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to Romelio Flores if the Executive Director determines that Romelio Flores has not complied with one or more of the terms or conditions in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV’T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PHILLIP M. GOODWIN

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Phillip M. Goodwin. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Romelio Flores dba Super Stop 30” (the “EDPRP”) was filed with the Office of the Chief Clerk on October 6, 2009.

The EDPRP was mailed to Mr. Flores at his last known address on October 6, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Flores received notice of the EDPRP on October 8, 2009, as evidenced by the signature on the card.

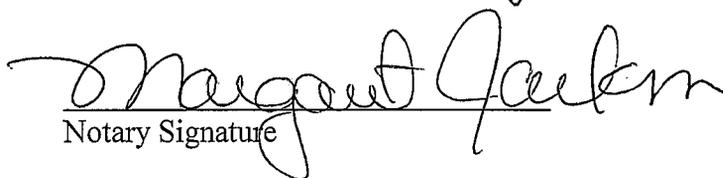
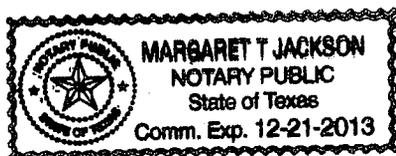
More than 20 days have elapsed since Mr. Flores received notice of the EDPRP. Mr. Flores failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.



Phillip M. Goodwin, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 25 day of February, 2010.



Notary Signature