

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2010-0105-PST-E **TCEQ ID:** RN101207231 **CASE NO.:** 39085

**RESPONDENT NAME:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

|  |   |  |
|--|---|--|
| <b>ORDER TYPE:</b>   |   |  |
| <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                    |  |
| <b>CASE TYPE:</b>  |   |  |
| <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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> A &amp; A Stop &amp; Shop, 14818 Highway 6, Arcola, Fort Bend County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 14, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Keith Frank, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-1203; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Mr. Mohdiqbal Bana, President, WESTSTAR SUNSHINE, INC., 14818 Highway 6, Arcola, Texas 77583<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|--|--|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> September 4, 2009</p> <p><b>Date of NOE Relating to this Case:</b> January 13, 2010</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failure to conduct detailed reconciliation of inventory control records at least once a 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 [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failure to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4) Failure to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>5) Failure to ensure that all spill and overflow prevention devices are maintained in good operating condition. Specifically, the spill bucket walls for tank nos. 1 and 2</p> | <p><b>Total Assessed:</b> \$32,631</p> <p><b>Total Deferred:</b> \$6,526<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$730 (remaining \$25,375 due in 35 monthly payments of \$725 each)</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Submitted documentation reflecting the implementation of release detection beginning on October 1, 2009;</p> <p>b. Submitted documentation reflecting the implementation of inventory control procedures on October 1, 2009;</p> <p>c. Replaced the deteriorated spill buckets on tank nos. 1 and 2 on November 17, 2009;</p> <p>d. Anchored the emergency shutoff valves at dispenser nos. 3 and 4 on September 29, 2009;</p> <p>e. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate that became valid on November 17, 2009; and</p> <p>f. Successfully completed testing of the Stage II vapor recovery system on September 4, 2009 with passing results.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, begin maintaining all Stage II records at the Station.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. a.</p> |

|   |  |  |
|---|--|--|
| <p>were collapsed and deteriorating [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>6) Failure to ensure that the emergency shutoff valves (also know as shear or impact valves) were securely anchored at the base of the dispenser. Specifically, the emergency shutoff valves at dispenser nos. 3 and 4 were not anchored [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>7) Failure to renew a delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on July 31, 2009 [30 TEX. ADMIN. CODE 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>8) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, nine fuel deliveries were accepted without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>9) Failure to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>10) Failure to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> |  |  |
|---|--|--|





# Penalty Calculation Worksheet (PCW)

TCEQ

|              |                 |             |                  |             |
|--------------|-----------------|-------------|------------------|-------------|
| <b>DATES</b> | <b>Assigned</b> | 20-Jan-2010 |                  |             |
|              | <b>PCW</b>      | 29-Jan-2010 | <b>Screening</b> | 26-Jan-2010 |
|              |                 |             | <b>EPA Due</b>   |             |

|  |   |
|--|---|
| <b>RESPONDENT/FACILITY INFORMATION</b> |   |
| <b>Respondent</b>                      | WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop |
| <b>Reg. Ent. Ref. No.</b>              | RN101207231                                   |
| <b>Facility/Site Region</b>            | 12-Houston                                    |
| <b>Major/Minor Source</b>              | Major   |

|  |                        |                              |                    |
|--|------------------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                        |                              |                    |
| <b>Enf./Case ID No.</b>                | 39085                  | <b>No. of Violations</b>     | 8                  |
| <b>Docket No.</b>                      | 2010-0105-PST-E        | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Petroleum Storage Tank | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                        | <b>Enf. Coordinator</b>      | Keith Frank        |
|  |                        | <b>EC's Team</b>             | Enforcement Team 7 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0                    | <b>Maximum</b>               | \$10,000           |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  **Subtotals 2, 3, & 7**

**Notes**

**Culpability**   **Subtotal 4**

**Notes**

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Subtotal 6**

|                            |          |                                   |
|----------------------------|----------|-----------------------------------|
| Total EB Amounts           | \$1,331  | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$13,331 |                                   |

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  **Reduction** **Adjustment**

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

**Notes**

**PAYABLE PENALTY**

Screening Date 26-Jan-2010

Docket No. 2010-0105-PST-E

PCW

Respondent WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

Policy Revision 2 (September 2002)

Case ID No. 39085

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101207231

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 1                 | 5%      |
|                               | Other written NOVs   | 2                 | 4%      |
| 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 judgments 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) 9%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one previous NOV with same or similar violations and two previous NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 9%

Screening Date 26-Jan-2010

Docket No. 2010-0105-PST-E

PCW

Respondent WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

Policy Revision 2 (September 2002)

Case ID No. 39085

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101207231

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.60(b)(1)(A), (d)(1)(B)(ii) and (d)(1)(B)(ii)(I) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor Underground Storage Tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between monitoring). Failed to conduct detailed reconciliation of inventory control records at least once a 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 the 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

OR

|         |           | Harm  |          |       |         |     |
|---------|-----------|-------|----------|-------|---------|-----|
|         |           | Major | Moderate | Minor |         |     |
| Release | Actual    |       |          |       | Percent | 50% |
|         | Potential | X     |          |       |         |     |

>> Programmatic Matrix

|               |  | Major | Moderate | Minor |         |    |
|---------------|--|-------|----------|-------|---------|----|
| Falsification |  |       |          |       | 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 and environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 27

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

mark only one with an x

Violation Base Penalty \$5,000

One monthly event is recommended based on documentation of the violation during the September 4, 2009 investigation date to the October 1, 2009 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes The Respondent came into compliance on October 1, 2009 prior to the NOE dated January 13, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$4,360

This violation Final Assessed Penalty (adjusted for limits) \$4,360

## Economic Benefit Worksheet

**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop  
**Case ID No.:** 39085  
**Reg. Ent. Reference No.:** RN101207231  
**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    |           |               |            | 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   | 4-Sep-2009    | 1-Oct-2009 | 0.07 | \$6            | n/a           | \$6       |

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs including volume measurement and reconciliation of inventory control records. Date Required is the investigation date. 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]    |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

**TOTAL**

\$6

Screening Date: 26-Jan-2010

Docket No: 2010-0105-PST-E

PCW

Respondent: WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

Policy Revision 2 (September 2002)

Case ID No: 39085

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101207231

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Keith Frank

Violation Number: 2

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  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | X     |          |       |

Percent: 50%

>> 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: \$5,000

\$5,000

Violation Events

Number of Violation Events: 1

Number of violation days: 27

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

mark only one with an x

Violation Base Penalty: \$5,000

One monthly event is recommended based on documentation of the violation during the September 4, 2009 investigation to the October 1, 2009 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes

The Respondent came into compliance on October 1, 2009 prior to the NOE dated January 13, 2010.

Violation Subtotal: \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$2

Violation Final Penalty Total: \$4,360

This violation Final Assessed Penalty (adjusted for limits): \$4,360

## Economic Benefit Worksheet

**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

**Case ID No.:** 39085

**Reg. Ent. Reference No.:** RN101207231

**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            | \$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     | 4-Sep-2009    | 1-Oct-2009 | 0.07 | \$2            | n/a           | \$2       |
| Training/Sampling        |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Other (as needed)        |           |               |            | 0.00 | \$0            | n/a           | \$0       |

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. Date Required is the investigation date. 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]    |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$2

**Screening Date:** 26-Jan-2010      **Docket No.:** 2010-0106-PST-E      **PCW**  
**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop      *Policy Revision 2 (September 2002)*  
**Case ID No.:** 39085      *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.:** RN101207231  
**Media [Statute]:** Petroleum Storage Tank  
**Enf. Coordinator:** Keith Frank  
**Violation Number:** 3  
**Rule Cite(s):** 30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)  
**Violation Description:** Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition. Specifically, the spill bucket walls for tank nos. 1 and 2 were collapsed and deteriorating.  
**Base Penalty:** \$10,000

**>> Environmental, Property and Human Health Matrix**

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

**>> Programmatic Matrix**

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

**Matrix Notes:** Human health or the environment will or could be exposed to 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:** \$7,500

**\$2,500**

**Violation Events**

Number of Violation Events: 1      75      Number of violation days  
 mark only one with an x  

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

**Violation Base Penalty:** \$2,500  
 One quarterly event is recommended based on documentation of the violation during the September 4, 2009 investigation to the November 17, 2009 compliance date.

**Good Faith Efforts to Comply:** 25.0% Reduction      \$625

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

**Notes:** The Respondent came into compliance on November 17, 2009 prior to the NOE dated January 13, 2010.

**Violation Subtotal:** \$1,875

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

**Estimated EB Amount:** \$98      **Violation Final Penalty Total:** \$2,180  
**This violation Final Assessed Penalty (adjusted for limits):** \$2,180

## Economic Benefit Worksheet

**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop  
**Case ID No.:** 39085  
**Reg. Ent. Reference No.:** RN101207231  
**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)        | \$9,631 | 4-Sep-2009 | 17-Nov-2009 | 0.20 | \$98 | n/a | \$98 |

Notes for DELAYED costs

Actual cost to repair the spill buckets and maintain the overfill protection equipment in proper working condition as per invoice. Date Required is the investigation date. Final Date is the date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$9,631

**TOTAL**

\$98

**Screening Date** 26-Jan-2010 **Docket No.** 2010-0105-PST-E **PCW**  
**Respondent** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop *Policy Revision 2 (September 2002)*  
**Case ID No.** 39085 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101207231  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Keith Frank  
**Violation Number** 4  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.45(c)(3)(A)  
**Violation Description** Failed to ensure that the emergency shutoff valves (also known as shear or impact valves) were securely anchored at the base of the dispenser. Specifically, the emergency shutoff valves at dispenser nos. 3 and 4 were not anchored.  
**Base Penalty** \$10,000

**>> Environmental, Property and Human Health Matrix**

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

**>> 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** \$7,600

\$2,500

**Violation Events**

Number of Violation Events   Number of violation days

*mark only one with an x*

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

**Violation Base Penalty** \$2,500

One quarterly event is recommended based on documentation of the violation during the September 4, 2009 investigation to the September 29, 2009 compliance date.

**Good Faith Efforts to Comply** 25.0% Reduction \$625

|               |            |                               |
|---------------|------------|-------------------------------|
|               | Before NOV | NOV to EDPR7/Settlement Offer |
| Extraordinary |            |                               |
| Ordinary      | X          |                               |
| N/A           |            | (mark with x)                 |

**Notes** The Respondent came into compliance on September 29, 2009 prior to the NOE dated January 13, 2010.

**Violation Subtotal** \$1,875

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

**Estimated EB Amount** \$0 **Violation Final Penalty Total** \$2,180

**This violation Final Assessed Penalty (adjusted for limits)** \$2,180

## Economic Benefit Worksheet

**Respondent** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

**Case ID No.** 39085

**Req. Ent. Reference No.** RN101207231

**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

|                          | Item Cost | Date Required | Final Date  | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment                | \$100     | 4-Sep-2009    | 29-Sep-2009 | 0.07 | \$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

Estimated cost to properly install and maintain emergency shutoff valves at the Station. Date Required is the investigation date. Final Date is the date of compliance.

### Avoided Costs

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

|                               | 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

\$100

**TOTAL**

\$0

Screening Date: 28-Jan-2010

Docket No: 2010-0105-PST-E

PCW

Respondent: WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

Policy Revision 2 (September 2002)

Case ID No: 39085

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN101207231

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Keith Frank

Violation Number: 5

Rule Cite(s)

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

Violation Description

Failed to renew a delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on July 31, 2009.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          |       |

Percent: 0%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | Major | Moderate | Minor |
|               | x     |          |       |

Percent: 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment: \$7,500

\$2,500

Violation Events

Number of Violation Events: 1

Number of violation days: 141

mark only one with an x

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

Violation Base Penalty: \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent came into compliance on November 17, 2009 prior to the NOE dated January 13, 2010.

Violation Subtotal: \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$2

Violation Final Penalty Total: \$2,180

This violation Final Assessed Penalty (adjusted for limits): \$2,180

## Economic Benefit Worksheet

**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

**Case ID No.:** 39085

**Req. Ent. Reference No.:** RN101207231

**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

| 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)        | \$100     | 30-Jun-2009   | 17-Nov-2009 | 0.38 | \$2            | n/a           | \$2       |

Notes for DELAYED costs

Estimated cost to renew a delivery certificate by submitting a properly completed UST Registration and Self-Certification form. Date Required is 30 days before the expiration date of the delivery certificate. 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]    |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

**TOTAL**

\$2

Screening Date 26-Jan-2010

Docket No. 2010-0105-PST-E

PCW

Respondent WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

Policy Revision 2 (September 2002)

Case ID No. 39085

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101207231

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 6

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 USTs. Specifically, nine fuel deliveries were accepted without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| 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 insignificant amounts of pollutants which would not exceed levels that are protective of human health and environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 9 Number of violation days 9

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

Violation Base Penalty \$9,000

Nine single events (one event per delivery) are 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 \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$10,183

This violation Final Assessed Penalty (adjusted for limits) \$10,183

# Economic Benefit Worksheet

**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop  
**Case ID No.:** 39085  
**Reg. Ent. Reference No.:** RN101207231  
**Media:** Petroleum Storage Tank  
**Violation No.:** 6

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

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

### Delayed Costs

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

Notes for DELAYED costs

Economic benefit included in violation no. 5.

### 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:** 26-Jan-2010 **Docket No.:** 2010-0105-PST-E **PCW**  
**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop *Policy Revision 2 (September 2002)*  
**Case ID No.:** 39085 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.:** RN101207231  
**Media [Statute]:** Petroleum Storage Tank  
**Enf. Coordinator:** Keith Frank

**Violation Number:** 7  
**Rule Cite(s):** 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description:** Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, 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**

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 50%     |
| 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 and environmental receptors as a result of the violation.

**Adjustment:** \$5,000

**Violation Events** \$5,000

Number of violation days  
 mark only one with an x  

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

**Violation Base Penalty:** \$5,000  
 One single event is recommended for the three year period preceding the September 4, 2009 investigation.

**Good Faith Efforts to Comply** \$1,250

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

**Notes:** The Respondent came into compliance on September 4, 2009 prior to the NOE dated January 13, 2010.

**Violation Subtotal:** \$3,750

**Economic Benefit (EB) for this violation** **Statutory Limit Test**  
**Estimated EB Amount:** \$1,198 **Violation Final Penalty Total:** \$4,360  
**This violation Final Assessed Penalty (adjusted for limits):** \$4,360

## Economic Benefit Worksheet

**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

**Case ID No.:** 39085

**Reg. Ent. Reference No.:** RN101207231

**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

| 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)        |           |               |            | 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            | \$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   | 4-Sep-2006    | 4-Sep-2009 | 3.92 | \$196          | \$1,000       | \$1,196   |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Estimated avoided cost for testing of the Stage II equipment. Date Required is three years prior to the investigation date. Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,196

**Screening Date** 26-Jan-2010 **Docket No.** 2010-0105-PST-E **PCW**  
**Respondent** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop *Policy Revision 2 (September 2002)*  
**Case ID No.** 39085 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN101207231  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Keith Frank  
**Violation Number** 8  
**Rule Cite(s)** 30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel.  
**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     |          |       | 25%     |

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

**Adjustment** \$7,500

\$2,500

**Violation Events**

Number of violation days  
 mark only one with an x  
 daily   
 weekly   
 monthly   
 quarterly   
 semiannual   
 annual   
 single event

**Violation Base Penalty** \$2,500

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** \$2,500

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

**Estimated EB Amount** \$28 **Violation Final Penalty Total** \$2,829

**This violation Final Assessed Penalty (adjusted for limits)** \$2,829

## Economic Benefit Worksheet

**Respondent:** WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

**Case ID No.:** 39085

**Req. Ent. Reference No.:** RN101207231

**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

| 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     | 4-Sep-2009    | 17-Oct-2010 | 1.12 | \$28           | n/a           | \$28      |
| 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. Date Required is the investigation date. 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**

\$28

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602893976 WESTSTAR SUNSHINE, INC. Classification: AVERAGE Rating: 2.00  
Regulated Entity: RN101207231 A & A Stop & Shop Classification: AVERAGE Site Rating: 2.00  
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0200547  
PETROLEUM STORAGE TANK REGISTRATION 66064  
REGISTRATION  
Location: 14818 HIGHWAY 6, ARCOLA, TX, 77583  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: January 22, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: January 22, 2005 to January 22, 2010

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

Name: Keith Frank Phone: (512) 239-1203

## 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? WESTSTAR SUNSHINE, INC.
4. If Yes, who was/were the prior owner(s)/operator(s)? Ausgro, Inc.
5. When did the change(s) in owner or operator occur? 10/01/2005
6. Rating Date: 9/1/2009 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 | 08/29/2005 | (405815) |
| 2 | 11/27/2007 | (567324) |
| 3 | 09/21/2008 | (687918) |
| 4 | 11/09/2009 | (780094) |
| 5 | 01/13/2010 | (778208) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

|              |  |                          |
|--------------|--|--------------------------|
| Date:        | 08/02/2005 (405815)  | CN602893976              |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter F 290.110(b)(4)   |                          |
| Description: | Failure to maintain the chlorine residual above the required minimum of 0.2 mg/L in the far reaches of distribution. |                          |
| Self Report? | NO   | Classification: Moderate |
| Citation:    | 30 TAC Chapter 290, SubChapter D 290.42(j)   |                          |
| Description: | Failure to utilize an NSF approved bleach in the disinfection of the drinking  |                          |
| Self Report? | NO   | Classification: Minor    |

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain the well house free of debris.

Date 11/27/2007 (567324) CN602893976  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)  
Description: Failure to conduct daily inspections.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)  
Description: Failure to maintain documentation for Stage II Facility representative.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
Description: Failure to have a required component.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)  
Description: The facility did not maintain a copy of the correct CARB Order for the Stage II system.

Date 10/20/2009 (780094) CN602893976  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)  
Description: Failure to utilize an NSF approved bleach in the disinfection of the drinking  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
Description: Failure to maintain the well house free of debris.

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  
WESTSTAR SUNSHINE, INC. DBA  
A & A STOP & SHOP  
RN101207231

§  
§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2010-0105-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 WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 14818 Highway 6 in Arcola, Fort Bend County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 18, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirty-Two Thousand Six Hundred Thirty-One Dollars (\$32,631) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Hundred Thirty Dollars (\$730) of the administrative penalty and Six Thousand Five Hundred Twenty-Six Dollars (\$6,526) 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 Twenty-Five Thousand Three Hundred Seventy-Five Dollars (\$25,375) of the administrative penalty shall be payable in 35 monthly payments of Seven Hundred Twenty-Five Dollars (\$725) 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. Submitted documentation reflecting the implementation of release detection beginning on October 1, 2009;
  - b. Submitted documentation reflecting the implementation of inventory control procedures on October 1, 2009;
  - c. Replaced the deteriorated spill buckets on tank nos. 1 and 2 on November 17, 2009;
  - d. Anchored the emergency shutoff valves at dispenser nos. 3 and 4 on September 29, 2009;
  - e. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate that became valid on November 17, 2009; and
  - f. Successfully completed testing of the Stage II vapor recovery system on September 4, 2009 with passing results.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on September 4, 2009.
2. Failed to conduct detailed reconciliation of inventory control records at least once a 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, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on September 4, 2009.
3. Failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on September 4, 2009.
4. Failed to conduct effective manual or automatic inventory control procedures for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on September 4, 2009.
5. Failed to ensure that all spill and overfill prevention devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2), as documented during an investigation conducted on September 4, 2009. Specifically, the spill bucket walls for tank nos. 1 and 2 were collapsed and deteriorating.
6. Failed to ensure that the emergency shutoff valves (also know as shear or impact valves) were securely anchored at the base of the dispenser, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), as documented during an investigation conducted on September 4, 2009. Specifically, the emergency shutoff valves at dispenser nos. 3 and 4 were not anchored.
7. Failed to renew a delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN.

CODE 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on September 4, 2009. Specifically, the delivery certificate expired on July 31, 2009.

8. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on September 4, 2009. Specifically, nine fuel deliveries were accepted without a delivery certificate.
9. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, 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 September 4, 2009. Specifically, the Stage II annual and triennial compliance testing had not been conducted.
10. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 4, 2009.

### 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: WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop, Docket No. 2010-0105-PST-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

5/21/2010  
~~4-5-10~~   
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

4-5-10  
Date

Mohd Tabal Bang  
Name (Printed or typed)  
Authorized Representative of  
WESTSTAR SUNSHINE, INC. dba A & A Stop & Shop

President  
Title

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

