

Executive Summary – Enforcement Matter – Case No. 39846
Shariq Hussain DBA Speedee Mart
RN102372810
Docket No. 2010-0965-PST-E

Order Type:

Default Shutdown Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1801 Ella Boulevard, Houston, Harris County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: None

Past-Due Penalties: None

Past-Due Fees: None

Other: The previous registered owner/operator of the Facility, Shoukat Hussain, owes \$4,704.66 in past-due penalties (Acct. No. 23703671).

Interested Third-Parties: None

Texas Register Publication Date: September 30, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$16,410

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$16,410

Compliance History Classifications:

Person/CN – Poor

Site/RN – Poor

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: March 15, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): March 21, 2011

Violation Information

1. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.8 (c)(4)(A) and (c)(5)(B)(ii)].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into a UST [30 TEX. ADMIN. CODE § 334.8 (c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
3. Failed to maintain all UST records at the Facility and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10 (b)].
4. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel [30 TEX. ADMIN. CODE § 334.48 (c)].
5. Failed to inspect the current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49 (c)(2)(C) and (c)(4), and TEX. WATER CODE § 26.3475(d)].
6. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to test the line leak detectors at least once per year for performance and operational reliability; and failed to provide release detection by failing to conduct reconciliation of detailed inventory control records at least once each month that is sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50 (b)(1)(A), (b)(2)(A)(i)(III) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(a) and (c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Began maintaining UST records at the Facility on or about June 7, 2010 (Violation No. 3).

Technical Requirements:

1. Immediately shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance; and
 - e. Temporarily remove the USTs from service.
2. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and corrosion protection violations have been corrected.

Executive Summary – Enforcement Matter – Case No. 39846
Shariq Hussain DBA Speedee Mart
RN102372810
Docket No. 2010-0965-PST-E

3. Respondent's UST fuel delivery certificate is revoked immediately. Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements.
4. Within 10 days, Respondent shall surrender his UST fuel delivery certificate.
5. Within 15 days, Respondent shall submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1 and 4.
6. Prior to receiving deliveries of gasoline and resuming sales of gasoline:
 - a. Begin conducting effective manual or automatic inventory control procedures for all USTs at the Facility;
 - b. Begin conducting bimonthly inspections of the cathodic protection system for the USTs and conduct the required triennial testing of the cathodic protection system for operability and adequacy of protection;
 - c. Implement a release detection method to monitor all USTs at the Facility, including but not limited to conducting reconciliation of inventory control records and testing of the line leak detectors for performance and operational reliability; and
 - d. Obtain a new fuel delivery certificate.
7. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
8. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 6 and 7.

Litigation Information

Date Petition(s) Filed: November 19, 2010 (no service); February 11, 2011 (re-filed for service on February 25, 2011); March 23, 2011 (re-filed for service on April 7, 2011, and May 12, 2011)

Date(s) Green Card(s) Signed: May 14, 2011

Date(s) Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: James Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Elvia Maske, Waste Enforcement Section, (512) 239-0789

TCEQ Regional Contact: Nicole Bealle, Houston Regional Office, (713) 767-3623

Respondent: Shariq Hussain, Owner/Operator, Speedee Mart, 1342 Rutland Street, Apartment 203
Houston, Texas 77008-4151

Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-May-2010			
	PCW	22-Mar-2011	Screening	26-May-2010	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Shariq Hussain dba Speedee Mart				
Reg. Ent. Ref. No.	RN102372810				
Facility/Site Region	12-Houston	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	39846	No. of Violations	6		
Docket No.	2010-0965-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Elvia Maske		
		EC's Team	Enforcement Team 7		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,000
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	37.0% Enhancement	Subtotals 2, 3, & 7	\$4,070
---------------------------	-------------------	--------------------------------	---------

Notes	Enhancement for one Default Order, one Notice of Violation with dissimilar violations and poor performer classification.
--------------	--

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	\$1,473	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$4,818	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,070
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	8.9%	Adjustment	\$1,340
---	------	-------------------	---------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 5 and 6.
--------------	---

Final Penalty Amount	\$16,410
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,410
-----------------------------------	-------------------------------	----------

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	\$16,410
------------------------	----------

Screening Date 26-May-2010

Docket No. 2010-0965-PST-E

PCW

Respondent Shariq Hussain dba Speedee Mart

Policy Revision 2 (September 2002)

Case ID No. 39846

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102372810

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Default Order, one Notice of Violation with dissimilar violations and poor performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 26-May-2010 **Docket No.** 2010-0965-PST-E **PCW**
Respondent Shariq Hussain dba Speedee Mart *Policy Revision 2 (September 2002)*
Case ID No. 39846 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102372810
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Elvia Maske

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="0%"/>
	Major	Moderate	Minor	
	Actual <input type="text"/>	<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" value="10%"/>
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	
	100% of the rule requirement was not met.				
Adjustment <input type="text" value="\$9,000"/>					

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 EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	(mark with x)
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>	
Violation Subtotal <input type="text" value="\$1,000"/>		

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 Shariq Hussain dba Speedee Mart
Case ID No. 39846
Reg. Ent. Reference No. RN102372810
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

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	31-Aug-2009	1-Jan-2011	1.34	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration and obtain a valid TCEQ delivery certificate. The date required is 30 days prior to the expiration date of the delivery certificate 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

\$100

TOTAL

\$7

Screening Date 26-May-2010 **Docket No.** 2010-0965-PST-E **PCW**
Respondent Shariq Hussain dba Speedee Mart *Policy Revision 2 (September 2002)*
Case ID No. 39846 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102372810
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Elvia Maske

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" value="5%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<input type="text" value="(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 Shariq Hussain dba Speedee Mart
Case ID No. 39846
Reg. Ent. Reference No. RN102372810
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit is included in violation no. 1.

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-May-2010 **Docket No.** 2010-0965-PST-E **PCW**
Respondent Shariq Hussain dba Speedee Mart *Policy Revision 2 (September 2002)*
Case ID No. 39846 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102372810
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Elvia Maske

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" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/> (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 Shariq Hussain dba Speedee Mart
Case ID No. 39846
Reg. Ent. Reference No. RN102372810
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	\$500	15-Mar-2010	7-Jun-2010	0.23	\$6	n/a	\$6
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 at the Facility. Date required is the investigation date and final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$6

Screening Date 26-May-2010 **Docket No.** 2010-0965-PST-E **PCW**
Respondent Shariq Hussain dba Speedee Mart *Policy Revision 2 (September 2002)*
Case ID No. 39846 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102372810
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Elvia Maske

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)
Violation Description Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel.

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

Number of Violation Events 1 72 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 from the March 15, 2010 investigation date to the May 26, 2010 screening date.

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 \$60

Violation Final Penalty Total \$3,730

This violation Final Assessed Penalty (adjusted for limits) \$3,730

Economic Benefit Worksheet

Respondent Shariq Hussain dba Speedee Mart
Case ID No. 39846
Reg. Ent. Reference No. RN102372810
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	\$1,500	15-Mar-2010	1-Jan-2011	0.80	\$60	n/a	\$60
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 investigation date 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

\$1,500

TOTAL

\$60

Screening Date 26-May-2010 **Docket No.** 2010-0965-PST-E **PCW**
Respondent Shariq Hussain dba Speedee Mart *Policy Revision 2 (September 2002)*
Case ID No. 39846 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102372810
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Elvia Maske

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4) and Tex. Water Code § 26.3475(d)
Violation Description Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years.

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

Number of Violation Events 1 510 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended for the period preceding the March 15, 2010 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 \$2,500

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

Estimated EB Amount \$1,211

Violation Final Penalty Total \$3,730

This violation Final Assessed Penalty (adjusted for limits) \$3,730

Economic Benefit Worksheet

Respondent Shariq Hussain dba Speedee Mart
Case ID No. 39846
Reg. Ent. Reference No. RN102372810
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	14-Jan-2010	15-Mar-2010	1.08	\$5	\$100	\$105
Other (as needed)	\$1,000	1-Jan-2009	15-Mar-2010	2.12	\$106	\$1,000	\$1,106

Notes for AVOIDED costs

Estimated avoided cost for conducting a bimonthly inspection (\$100) and for completing the triennial test (\$1,000). The dates required are 60 days before the investigation date and change of ownership date, respectively, and the final date is the date of the investigation.

Approx. Cost of Compliance

\$1,100

TOTAL

\$1,211

Screening Date 26-May-2010	Docket No. 2010-0965-PST-E	PCW	
Respondent Shariq Hussain dba Speedee Mart		<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 39846		<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN102372810			
Media [Statute] Petroleum Storage Tank			
Enf. Coordinator Elvia Maske			
Violation Number 6			
Rule Cite(s)	30 Tex. Admin. Code §§ 334.50(b)(1)(A), (b)(2)(A)(i)(III) and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(a) and (c)(1)		
Violation Description	Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Failed to test the line leak detectors at least once per year for performance and operational reliability. Also, failed to provide release detection for the UST system by failing to conduct reconciliation of detailed inventory control records at least once each month that is sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.		
	Base Penalty	\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Release	Harm	
		Major Moderate Minor	
	Actual	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>
			Percent <input type="text" value="25%"/>
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.		
	Adjustment	\$7,500	
			\$2,500
Violation Events			
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="72"/> Number of violation days
	<i>mark only one with an x</i>	daily	<input type="text"/>
		weekly	<input type="text"/>
		monthly	<input type="text"/>
		quarterly	<input type="text" value="x"/>
		semiannual	<input type="text"/>
		annual	<input type="text"/>
		single event	<input type="text"/>
			Violation Base Penalty <input type="text" value="\$2,500"/>
	One quarterly event is recommended from the March 15, 2010 investigation date to the May 26, 2010 screening date.		
Good Faith Efforts to Comply			
		0.0% Reduction	<input type="text" value="\$0"/>
		Before NOV NOV to EDPRP/Settlement Offer	
	Extraordinary	<input type="text"/>	<input type="text"/>
	Ordinary	<input type="text"/>	<input type="text"/>
	N/A	<input type="text" value="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	<input type="text" value="\$189"/>	Violation Final Penalty Total <input type="text" value="\$3,730"/>
		This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,730"/>	

Economic Benefit Worksheet

Respondent Shariq Hussain dba Speedee Mart
Case ID No. 39846
Reg. Ent. Reference No. RN102372810
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)	\$1,500	15-Mar-2010	1-Jan-2011	0.80	\$60	n/a	\$60

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 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]	\$118	15-Mar-2009	15-Mar-2010	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for conducting annual line leak detector tests. The date required is one year prior to the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$189

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603672916 Hussain, Shariq	Classification: POOR	Rating: 45.50
Regulated Entity:	RN102372810 Speedee Mart	Classification: POOR	Site Rating: 45.50
ID Number(s):	PETROLEUM STORAGE TANK	REGISTRATION	33608
	REGISTRATION		
	PETROLEUM STORAGE TANK STAGE II	REGISTRATION	33608
Location:	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG6765D
	1801 ELLA BLVD, HOUSTON, TX, 77008		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	June 28, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 28, 2005 to June 28, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Elvia Maske	Phone:	(512) 239 - 0789

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? OWNOPR Hussain, Shariq
4. If Yes, who was/were the prior owner(s)/operator(s) ? OWNOPR Hussain, Shoukat
OWNOPR Hussain
OWNOPR Speedee Mart
5. When did the change(s) in owner or operator occur? 08/20/2005 OWNOPR Speedee Mart
01/01/2009 OWNOPR Hussain, Shoukat
OWNOPR Hussain
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 05/18/2008

ADMINORDER 2007-0571-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
30 TAC Chapter 115, SubChapter C 115.246(3)
30 TAC Chapter 115, SubChapter C 115.246(6)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to maintain Stage II records on-site and make immediately available for inspection by Commission personnel.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to conduct monthly inspections of the Stage II vapor recovery system.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first.

- 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 12/09/2006 (532544)
- 2 04/04/2007 (555183)
- 3 05/21/2010 (800085)
- 4 06/24/2010 (828435)

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

Date: 12/09/2006 (532544)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
30 TAC Chapter 115, SubChapter C 115.246(3)
30 TAC Chapter 115, SubChapter C 115.246(6)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to maintain Stage II records on-site and make immediately available for inspection by Commission personnel.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to conduct monthly inspections of the Stage II vapor recovery system.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first.

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
SHARIQ HUSSAIN DBA
SPEEDEE MART;
RN102372810**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2010-0965-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Second Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shutdown and remove from service the underground storage tanks ("USTs") located at 1801 Ella Boulevard in Houston, Harris County, Texas. The respondent made the subject of this Order is Shariq Hussain DBA Speedee Mart ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), a UST system and a convenience store with retail sales of gasoline located at 1801 Ella Boulevard, Houston, Harris County Texas (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on March 15, 2010, a TCEQ Houston Regional Office investigator documented that Respondent:
 - a. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2009;
 - b. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into a UST. Specifically, Respondent received three fuel deliveries without a valid delivery certificate;

- c. Failed to maintain all UST records at the Facility and make them immediately available for inspection upon request by agency personnel;
 - d. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel;
 - e. Failed to inspect the current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years; and
 - f. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to test the line leak detectors at least once per year for performance and operational reliability; and failed to provide release detection by failing to conduct reconciliation of detailed inventory control records at least once each month that is sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.
3. The Executive Director recognizes that Respondent began maintaining UST records at the Facility on or about June 7, 2010 (Conclusion of Law No. 4).
 4. By letter dated May 21, 2011, the TCEQ Houston Regional Office provided Respondent with notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations are not corrected.
 5. 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 Shariq Hussain DBA Speedee Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on November 19, 2010. The Executive Director was not able to obtain service.
 6. The Executive Director filed the "Executive Director's First Amended 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 Shariq Hussain DBA Speedee Mart" (the "EDFARP") in the TCEQ Chief Clerk's office on February 11, 2011 and February 25, 2011. The Executive Director was not able to obtain service.
 7. The Executive Director filed the "Executive Director's Second Amended 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 Shariq Hussain DBA Speedee Mart" (the "EDSARP") in the TCEQ Chief Clerk's office on March 23, 2011 and April 7, 2011. The Executive Director was not able to obtain service.

8. The Executive Director re-filed the "Executive Director's Second Amended 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 Shariq Hussain DBA Speedee Mart" (the "EDSARP") in the TCEQ Chief Clerk's office on May 12, 2011.
9. By letter dated May 12, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDSARP. According to the return receipt "green card," Respondent received notice of the EDSARP on May 14, 2011, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Respondent received notice of the EDSARP, provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.
11. By letter dated July 11, 2011, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the release detection and corrosion protection violations within 30 days after Respondent's receipt of the notice.
12. The USTs at the Facility do not have release detection or corrosion protection as required by 30 TEX. ADMIN. CODE §§ 334.49(c)(2)(C), 334.50(b)(1)(a) and (b)(2)(A)(III) and (d)(1)(B)(ii), and TEX. WATER CODE § 26.3475(a), (c) (1) and (d), and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.
13. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection and corrosion protection violations alleged in Findings of Fact Nos. 2.e. and 2.f. have been corrected.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to timely renew a previously issued UST 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) and (c)(5)(B)(ii).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into a UST, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to maintain all UST records at the Facility and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).

5. As evidenced by Finding of Fact No. 2.d., Respondent failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to inspect the current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to inspect and test the cathodic protection system for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4), and TEX. WATER CODE § 26.3475(d).
7. As evidenced by Finding of Fact No. 2.f., Respondent failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to test the line leak detectors at least once per year for performance and operational reliability; and failed to provide release detection by failing to conduct reconciliation of detailed inventory control records at least once each month that is sufficiently accurate to detect a release as small as 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(b)(1)(A), (b)(2)(A)(i)(III) and (d)(1)(B)(ii), and TEX. WATER CODE § 26.3475(a) and (c)(1).
8. As evidenced by Findings of Fact Nos. 8 and 9, the Executive Director timely served Respondent with proper notice of the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
9. As evidenced by Finding of Fact No. 10, Respondent 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 Respondent and assess the penalty recommended by the Executive Director.
10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
11. An administrative penalty in the amount of sixteen thousand four hundred ten dollars (\$16,410.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. As evidenced by Findings of Fact Nos. 4 and 11 through 13, Respondent failed to correct documented violations of Commission release detection and corrosion protection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
13. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill protection for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.

14. 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.
15. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Respondent's UST fuel delivery certificate if the Commission finds that good cause exists.
16. Good cause for revocation of Respondent's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 8 through 12, and Conclusions of Law Nos. 2 through 9.
17. As evidenced by Findings of Fact Nos. 12 and 13, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. Respondent's USTs shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provision Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and corrosion protection violations noted in Findings of Fact Nos. 2.e. and 2.f. and Conclusions of Law Nos. 6 and 7 have been corrected.
3. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent shall, immediately upon the effective date of the Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Respondent's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order.
5. Within 10 days after the effective date of this Order, Respondent shall send his UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 5. The written report shall include detailed supporting documentation such as photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 fine and imprisonment for knowing violations."

The certification, written report, and supporting documentation shall be submitted to:

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

and:

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

7. Respondent is assessed an administrative penalty in the amount of sixteen thousand four hundred ten dollars (\$16,410.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent'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.
8. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Shariq Hussain DBA Speedee Mart; Docket No. 2010-0965-PST-E" to:

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

9. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Begin conducting effective manual or automatic inventory control procedures for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.48 (Conclusion of Law No. 5);
 - b. Begin conducting bimonthly inspections of the cathodic protection system for the USTs and conduct the required triennial testing of the cathodic protection system for operability and adequacy of protection, in accordance with, 30 TEX. ADMIN. CODE § 334.49 (Conclusion of Law No. 6);
 - c. Implement a release detection method to monitor all USTs at the Facility, including but not limited to conducting reconciliation of inventory control records and testing of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusion of Law No. 7); and
 - d. Obtain a new fuel delivery certificate from the TCEQ (Conclusions of Law Nos. 2 and 3.)
10. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
11. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision Nos. 9 and 10. The certification shall be notarized by a State of Texas Notary Public and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

12. All relief not expressly granted in this Order is denied.
13. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
14. If Respondent 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, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
15. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
16. 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 Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

17. 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.
18. 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 this Order was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

Shariq Hussain DBA Speedee Mart
Docket No. 2010-0965-PST-E
Page 10

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

“My name is Jim Sallans. 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 Shariq Hussain DBA Speedee Mart” (the “EDPRP”) was filed in the TCEQ Chief Clerk’s office on November 19, 2010. The Executive Director was not able to obtain service.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended 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 Shariq Hussain DBA Speedee Mart,” (the “EDFARP”) was filed in the TCEQ Chief Clerk’s office on February 11, 2011 and February 25, 2011. The Executive Director was not able to obtain service.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended 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 Shariq Hussain DBA Speedee Mart” (the “EDSARP”) was filed in the TCEQ Chief Clerk’s office on March 23, 2011 and April 7, 2011. The Executive Director was not able to obtain service.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended 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 Shariq Hussain DBA Speedee Mart” (the “EDSARP”) was re-filed in the TCEQ Chief Clerk’s office on May 12, 2011.

The EDSARP was mailed to Respondent’s last known address on May 12, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Respondent received notice of the EDSARP on May 14, 2011, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDSARP. Respondent failed to file an answer and failed to request a hearing.

By letter dated July 11, 2011, sent via first class mail and certified mail, return receipt requested article no. 7010 3090 0000 7807 3203, I provided Respondent with notice of the TCEQ’s intent to order the USTs at the Facility shut down and removed from service if the violations pertaining to release detection, corrosion protection and spill and/or overflow were not corrected within 30 days of Respondent’s receipt of the letter.

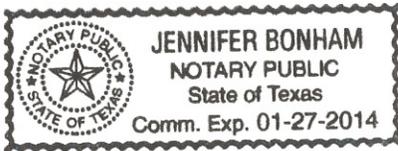
As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the violations noted during the March 15, 2010 investigation."



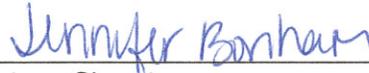
Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, 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 13th day of September A.D. 2011.



Notary Without Bond



Notary Signature