

Executive Summary – Enforcement Matter – Case No. 40459
NORTHWEST PETROLEUM LP dba San Marcos Shell
RN101496453
Docket No. 2010-1588-PST-E

Order Type:

Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

2201 Interstate Highway 35 South, San Marcos, Hays 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:	None
Interested Third-Parties:	None

Texas Register Publication Date: October 14, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$8,004

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$345

Total Due to General Revenue: \$7,659

Payment Plan: 23 payments of \$333 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average

Site/RN – Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: September 15, 2010
Date(s) of NOV(s): July 1, 2010
Date(s) of NOE(s): September 21, 2010

Violation Information

1. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
2. Failed to ensure that the USTs are monitored in a manner which will detect a release at a frequency of at least once a month (not to exceed 35 days between each monitoring); failed to provide release detection for the piping associated with the USTs; failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals and the amount of still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a) and (c)(1)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Within 30 days:
 - a. Begin maintaining all UST records;
 - b. Implement a release detection method for the USTs and the piping associated with the UST system; and
 - c. Begin conducting daily inventory volume measurement and monthly reconciliation of inventory control records.
2. Within 45 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: February 23, 2011
Date Answer(s) Filed: March 11, 2011
SOAH Referral Date: April 11, 2011
Hearing Date(s):
Preliminary hearing: May 26, 2011
Evidentiary hearing: November 18, 2011 (remanded October 11, 2011)
Settlement Date: September 22, 2011

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RN101496453
Docket No. 2010-1588-PST-E

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Contact Information

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

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Judy Kluge, Waste Enforcement Section, (817)588-5825

TCEQ Regional Contact: Barry Kalda, Austin Regional Office, (512) 339-2929

Respondent: Fazil Malik, President, Northwest Petroleum LP dba San Marcos Shell, 17171 Park Row, Suite 295, Houston, Texas 77084

Respondent's Attorney: Brooke M. Marcus, Smith, Robertson, Elliott, Glen, Klein and Douglas, L.L.P., 221 West Sixth Street, Suite 1100, Austin, Texas 78701

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Sep-2010	Screening	24-Sep-2010	EPA Due	
	PCW	4-Jan-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	NORTHWEST PETROLEUM LP dba San Marcos Shell					
Reg. Ent. Ref. No.	RN101496453					
Facility/Site Region	11-Austin	Major/Minor Source	Major			

CASE INFORMATION						
Enf./Case ID No.	40459	No. of Violations	2			
Docket No.	2010-1588-PST-E	Order Type	1660			
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Judy Kluge			
		EC's Team	Enforcement Team 6			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000			

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$375
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Notes	Enhancement for one NOV with same/similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$205	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,118	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1.6%	Adjustment	\$129
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.
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Final Penalty Amount	\$8,004
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,004
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$8,004
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Screening Date 24-Sep-2010

Docket No. 2010-1588-PST-E

PCW

Respondent NORTHWEST PETROLEUM LP dba San Marcos She

Policy Revision 2 (September 2002)

Case ID No. 40459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101496453

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 5%

>> 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 NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 24-Sep-2010

Docket No. 2010-1588-PST-E

PCW

Respondent NORTHWEST PETROLEUM LP dba San Marcos Shell

Policy Revision 2 (September 2002)

Case ID No. 40459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101496453

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Violation Description Failed to maintain underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	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 Events 1 9 Number of violation days

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

Violation Base Penalty \$2,500

One single event is recommended based on documentation of the violation during the September 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 \$19

Violation Final Penalty Total \$2,668

This violation Final Assessed Penalty (adjusted for limits) \$2,668

Economic Benefit Worksheet

Respondent NORTHWEST PETROLEUM LP dba San Marcos Shell
Case ID No. 40459
Req. Ent. Reference No. RN101496453
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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-Sep-2010	17-Jun-2011	0.75	\$19	n/a	\$19
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

\$19

Screening Date 24-Sep-2010

Docket No. 2010-1588-PST-E

PCW

Respondent NORTHWEST PETROLEUM LP dba San Marcos Shell

Policy Revision 2 (September 2002)

Case ID No. 40459

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101496453

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 2

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

Violation Description

Failed to ensure that the USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide release detection for the piping associated with the USTs. Specifically, the annual piping tightness test was not conducted. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	6/17/2011	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

9 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One monthly event is recommended based documentation of the violation during the September 15, 2010 investigation to the September 24, 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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$186

Violation Final Penalty Total \$5,336

This violation Final Assessed Penalty (adjusted for limits) \$5,336

Economic Benefit Worksheet

Respondent NORTHWEST PETROLEUM LP dba San Marcos Shell
Case ID No. 40459
Req. Ent. Reference No. RN101496453
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)	\$1,500	15-Sep-2010	17-Jun-2011	0.75	\$57	n/a	\$57

Notes for DELAYED costs

The estimated cost of monitoring the USTs for releases including volume measurement and reconciliation of inventory control records. The date required is the investigation date and the final date is the expected 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-Sep-2009	15-Sep-2010	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for piping tightness 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

\$186

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603406802 NORTHWEST PETROLEUM LP	Classification: AVERAGE	Rating: 2.34
Regulated Entity:	RN101496453 San Marcos Shell	Classification: AVERAGE	Site Rating: 7.50
ID Number(s):	PETROLEUM STORAGE TANK	REGISTRATION	74398
Location:	2201 IH 35 S, SAN MARCOS, TX, 78666		
TCEQ Region:	REGION 11 - AUSTIN		
Date Compliance History Prepared:	September 22, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 22, 2005 to September 22, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:			
Name:	Judy Kluge	Phone:	(817) 588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	06/30/2010	(802407)	
2	09/20/2010	(860021)	
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/01/2010	(802407)	CN603406802
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 - Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)
Description: Failure of the owner or operator of the USTs regulated under this section for ensuring that a legible tag, label, or marking is permanently applied upon or affixed to either the top of the fill tube or to a non removable point in the immediate area of the fill tube for each regulated underground storage tank (UST) at the facility.
 - Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.42(i)
Description: Failure to inspect once every 60 days any sumps (including dispenser sumps) or manways installed prior to January 1, 2009, which are utilized as an integral part of a UST release detection system, and any overspill containers or catchment basins installed at any time, which are associated with a UST system. Any liquids or debris found in them during an inspection must be removed and properly disposed of within 72 hours of discovery.
 - Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.222(3)
Description: Failure to eliminate any avoidable gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the liquid transfer or vapor balance system.
 - Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)
Description: Failure to develop and maintain all UST records required by the provisions of Title 30 TAC 334.49(e) pertaining to corrosion protection records and 30 TAC 334.50(e)(1) pertaining to release detection records.
 - Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(ii)
Description: Failure of the owner or operator of USTs regulated under this section to make immediately available, upon request by agency staff, a valid, current TCEQ delivery certificate (or TCEQ temporary delivery authorization under subparagraph (D) of this paragraph, as applicable) for the USTs at a facility.

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
NORTHWEST PETROLEUM LP DBA
SAN MARCOS SHELL;
RN101496453**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1588-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding NORTHWEST PETROLEUM LP DBA San Marcos Shell ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Brooke M. Marcus of the law firm Smith, Robertson, Elliott, Glen, Klein and Douglas, L.L.P., appear before the Commission and together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 2201 Interstate Highway 35 South in San Marcos, Hays 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. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of eight thousand four dollars (\$8,004.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred forty-five dollars (\$345.00) of the administrative penalty. The remaining amount of seven thousand six hundred fifty-nine dollars (\$7,659.00) of the administrative penalty shall be payable in twenty-three (23) monthly payments of three hundred thirty-three dollars (\$333.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed

Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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

1. During an investigation conducted on September 15, 2010, a TCEQ Austin Regional Office investigator documented that Respondent:
 - a. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b); and
 - b. Failed to ensure that the USTs are monitored in a manner which will detect a release at a frequency of at least once a month (not to exceed 35 days between each monitoring); failed to provide release detection for the piping associated with the USTs; failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, and failed to record inventory volume measurement for regulated substance inputs, withdrawals and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a) and (c)(1).
2. Respondent received notice of the violations on or about September 26, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: NORTHWEST PETROLEUM LP DBA San Marcos Shell, Docket No. 2010-1588-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

2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
 - i. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10;
 - ii. Implement a release detection method for the USTs and the piping associated with the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - iii. Begin conducting daily inventory volume measurement and monthly reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 - b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 2.c., below, to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.iii.
 - c. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including 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.”

Respondent shall submit the written certification and supporting 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, Austin Regional Office
Texas Commission on Environmental Quality
Austin, Regional Office
2800 S. IH-35, Suite 100
Austin, Texas 78704-5712

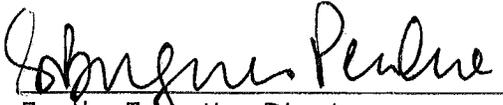
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed 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.
6. 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 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to 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

10/28/2011

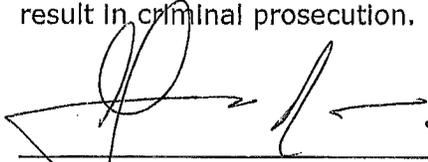
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of NORTHWEST PETROLEUM LP dba San Marcos Shell, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



Signature=Fazil Malik, President
NORTHWEST PETROLEUM LP

9/22/2011

Date