

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1025-PST-E **TCEQ ID:** RN105205561 **CASE NO.:** 39916

RESPONDENT NAME: MURPHY OIL USA, INC. dba Murphy USA 7437

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Murphy USA 7437, 8060 Independence Parkway, Plano, Collin County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 6, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Park, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-4575; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Brad Weinschke, Environmental Compliance Coordinator, MURPHY OIL USA, INC., 200 East Peach Street, El Dorado, Arkansas 71730 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 27, 2010</p> <p>Date of NOV/NOE Relating to this Case: June 7, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to equip each fill pipe with removable or permanent factory-constructed drop tubes which have a maximum clearance of six inches from the tank bottom. Specifically, the drop tubes for the premium unleaded and regular unleaded tanks had approximately 8 and 10 inches of clearance from the tank bottom, respectively [30 TEX. ADMIN. CODE § 115.222(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the Stage II testing indicated a vapor leak in the vapor recovery system [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual testing was not successfully completed on February 23, 2010 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failed to maintain Stage II records</p>	<p>Total Assessed: \$19,029</p> <p>Total Deferred: \$3,805 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$15,224</p> <p>Compliance History Classification: Person/CN – Average Site/RN – Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, begin maintaining all Stage II records at the Station.</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Install drop tubes that do not exceed six inches from the bottom of the tank;</p> <p>ii. Repair the vapor leak in the Stage II vapor recovery system and begin maintaining it in proper operating condition;</p> <p>iii. Conduct the required annual testing of the Stage II equipment; and</p> <p>iv. Repair or replace the line leak detector and successfully conduct the required annual testing of the line leak detector, and begin maintaining all release detection equipment in proper operating condition.</p> <p>c. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through b.iv.</p>

<p>at the Station and make them immediately available for review upon request by agency personnel. Specifically, the Stage II Station representative and employee in-house training records were not available for inspection [30 TEX. ADMIN. CODE § 115.246(4) and (7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5) Failed to ensure that all release detection equipment installed as part of an underground storage tank system is maintained in good operating condition. Specifically, the mechanical line leak detector on the regular unleaded tank was not functioning [30 TEX. ADMIN. CODE § 334.48(e)].</p> <p>6) Failed to test the line leak detector at least once per year for performance and operational reliability. Specifically, the line leak detector on the regular unleaded tank was not successfully tested by the due date of February 3, 2010 [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p>		
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Additional ID No(s): PST 78502



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	15-Jun-2010			
	PCW	21-Jun-2010	Screening	21-Jun-2010	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	MURPHY OIL USA, INC. dba Murphy USA 7437
Reg. Ent. Ref. No.	RN105205561
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39916	No. of Violations	5
Docket No.	2010-1025-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Park
		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: **\$17,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Subtotals 2, 3, & 7: **\$875**

5.0% Enhancement

Notes: Enhancement for one prior notice of violation with same or similar violations.

Culpability Subtotal 4: **\$0**

0.0% Enhancement

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5: **\$0**

Economic Benefit Subtotal 6: **\$0**

0.0% Enhancement

Total EB Amounts	\$733	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,268	

SUM OF SUBTOTALS 1-7 Final Subtotal: **\$18,375**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment: **\$654**

3.6%

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 3 and 5.

Final Penalty Amount **\$19,029**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty: **\$19,029**

DEFERRAL Adjustment: **-\$3,805**

20.0% Reduction

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$15,224**

Screening Date 21-Jun-2010

Docket No. 2010-1025-PST-E

PCW

Respondent MURPHY OIL USA, INC. dba Murphy USA 7437

Policy Revision 2 (September 2002)

Case ID No. 39916

PCW Revision October 30, 2005

Reg. Ent. Reference No. RN105205561

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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 prior notice of violation with same or similar violations.

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

Screening Date 21-Jun-2010

Docket No. 2010-1025-PST-E

PCW

Respondent MURPHY OIL USA, INC. dba Murphy USA 7437

Policy Revision 2 (September 2002)

Case ID No. 39916

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105205561

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 115.222(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to equip each fill pipe with removable or permanent factory-constructed drop tubes which have a maximum clearance of six inches from the tank bottom. Specifically, the drop tubes for the premium unleaded and regular unleaded tanks had approximately 8 and 10 inches of clearance from the tank bottom, respectively.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

25 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the May 27, 2010 investigation to the June 21, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPR/Settlement
	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 \$16

Violation Final Penalty Total \$2,718

This violation Final Assessed Penalty (adjusted for limits) \$2,718

Economic Benefit Worksheet

Respondent: MURPHY OIL USA, INC. dba Murphy USA 7437
Case ID No.: 39916
Reg. Ent. Reference No.: RN105205561
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	One-time Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$300	27-May-2010	21-Feb-2011	0.74	\$1	\$15	\$16
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install two drop tubes. 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

\$300

TOTAL

\$16

Screening Date 21-Jun-2010

Docket No. 2010-1026-PST-E

PCW

Respondent MURPHY OIL USA, INC. dba Murphy USA 7437

Policy Revision 2 (September 2002)

Case ID No. 39916

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105205561

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the Stage II testing indicated a vapor leak in the vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

26 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the May 27, 2010 investigation to the June 21, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$26

Violation Final Penalty Total \$2,718

This violation Final Assessed Penalty (adjusted for limits) \$2,718

Economic Benefit Worksheet

Respondent: MURPHY OIL USA, INC. dba Murphy USA 7437
Case ID No.: 39916
Reg. Ent. Reference No.: RN105205561
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
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No commas or \$

Delayed Costs

Equipment	\$500	27-May-2010	21-Feb-2011	0.74	\$1	\$25	\$26
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the vapor leak in the vapor recovery system. 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

\$26

Screening Date 21-Jun-2010

Docket No. 2010-1025-PST-E

PCW

Respondent MURPHY OIL USA, INC. dba Murphy USA 7437

Policy Revision 2 (September 2002)

Case ID No. 39913

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105205561

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 3

Rule Cite(s)

30-Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual testing was not successfully completed on February 23, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

106 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$5,000

One annual event is recommended for the period preceding the May 27, 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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$529

Violation Final Penalty Total \$5,437

This violation Final Assessed Penalty (adjusted for limits) \$5,437

Economic Benefit Worksheet

Respondent: MURPHY OIL USA, INC. dba Murphy USA 7437
Case ID No.: 39916
Reg. Ent. Reference No.: RN105205561
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
<small>No commas or \$</small>							

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]	\$500	23-Feb-2010	27-May-2010	1.17	\$29	\$500	\$529
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for retesting the Stage-II equipment. The date required is the date the test failed and the final date is the investigation date.

Approx. Cost of Compliance

\$500

TOTAL

\$529

Screening Date 21-Jun-2010

Docket No. 2010-1025-PST-E

PCW

Respondent MURPHY OIL USA, INC. dba Murphy USA 7437

Policy Revision 2 (September 2002)

Case ID No. 39916

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105205561

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 4

Rule Cite(s) 30 Tex. Adm. Code § 116.246(4) and (7)(A); and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, the Stage II Station representative and employee in-house training records were not available for inspection.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 25

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 May 27, 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 \$18

Violation Final Penalty Total \$2,718

This violation Final Assessed Penalty (adjusted for limits) \$2,718

Economic Benefit Worksheet

Respondent: MURPHY OIL USA, INC. dba Murphy USA 7437

Case ID No.: 39918

Reg. Ent. Reference No.: RN105205561

Media: Petroleum Storage Tank

Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
Equipment			0.00	\$0	\$0	\$0	
Buildings			0.00	\$0	\$0	\$0	
Other (as needed)			0.00	\$0	\$0	\$0	
Engineering/construction			0.00	\$0	\$0	\$0	
Land			0.00	\$0	n/a	\$0	
Record Keeping System	\$500	27-May-2010	21-Feb-2011	0.74	\$18	n/a	\$18
Training/Sampling			0.00	\$0	n/a	\$0	
Remediation/Disposal			0.00	\$0	n/a	\$0	
Permit Costs			0.00	\$0	n/a	\$0	
Other (as needed)			0.00	\$0	n/a	\$0	

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. The date required is the 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)

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$18

Screening Date 21-Jun-2010

Docket No. 2010-1025-PST-E

PCW

Respondent MURPHY OIL USA, INC. dba Murphy USA 7437

Policy Revision 2 (September 2002)

Case ID No. 39916

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105205561

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III) and 334.48(e) and Tex. Water Code § 26.3475(a)

Violation Description

Failed to test the line leak detector at least once per year for performance and operational reliability. Specifically, the line leak detector on the regular unleaded tank was not successfully tested by the due date of February 3, 2010. Also, failed to ensure that all release detection equipment installed as part of an underground storage tank system is maintained in good operating condition. Specifically, the mechanical line leak detector on the regular unleaded tank was not functioning.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$5,000

One annual event is recommended for the 12-month period preceding the the May 27, 2010 investigation.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDCRP/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 \$143

Violation Final Penalty Total \$5,437

This violation Final Assessed Penalty (adjusted for limits) \$5,437

Economic Benefit Worksheet

Respondent: MURPHY OIL USA, INC. dba Murphy USA 7437

Case ID No.: 39916

Reg. Ent. Reference No.: RN105205561

Media: Petroleum Storage Tank

Violation No.: 5

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **One-time Costs** **EB-Amount**
Item Description No commas or \$

Delayed Costs

Equipment	\$350	27-May-2010	21-Feb-2011	0.74	\$1	\$17	\$18
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace the line leak detector. 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	3-Feb-2010	27-May-2010	1.23	\$7	\$118	\$125
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for testing the line leak detector. The date required is the test due date and the final date is the investigation date.

Approx. Cost of Compliance

\$468

TOTAL

\$143

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601187875 MURPHY OIL USA, INC.	Classification: AVERAGE	Rating: 2.48
Regulated Entity:	RN105205661 Murphy USA 7437	Classification: AVERAGE	Site Rating: 6.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	78502
Location:	8060 INDEPENDENCE PKWY, PLANO, TX, 75025		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	June 16, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 16, 2005 to June 16, 2010		

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

Name: Andrea Park Phone: 512-239-4575

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

N/A
- B. Any criminal convictions of the state of Texas and the federal government.

N/A
- C. Chronic excessive emissions events.

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	02/04/2008	(615258)
2	03/06/2008	(638020)
3	06/07/2010	(825169)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/04/2008	(615258)	CN601187875
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.244(1)		
Description:	Failure to conduct daily inspections of the Stage II vapor recovery system for the defects specified in §115.242(3)(A) - (F), (H), and (K).		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.244(3)		
Description:	Failure to conduct monthly inspections of the components listed in §115.242(3)(J) of this title.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.248(2)		
Description:	Failure to ensure that if the facility representative who received the approved training is no longer employed at that facility, another facility representative must successfully complete approved training within three months of the departure of the previously trained employee.		
Self Report?	NO		Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(H)
Description: Failure to maintain the stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resource Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including a vapor processing unit that is inoperative or defective.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)
Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resource Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)
Description: Failure to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by California Air Resources Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including the absence or disconnection of any component that is a part of the approved system.

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
MURPHY OIL USA, INC. DBA
MURPHY USA 7437
RN105205561

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-1025-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MURPHY OIL USA, INC. dba Murphy USA 7437 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 8060 Independence Parkway in Plano, Collin County, Texas (the "Station").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 12, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Nineteen Thousand Twenty-Nine Dollars (\$19,029) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fifteen Thousand Two Hundred Twenty-Four Dollars (\$15,224) of the administrative penalty and Three Thousand Eight Hundred Five Dollars (\$3,805) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to equip each fill pipe with removable or permanent factory-constructed drop tubes which have a maximum clearance of six inches from the tank bottom, in violation of 30 TEX. ADMIN. CODE § 115.222(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 27, 2010. Specifically, the drop tubes for the premium unleaded and regular unleaded tanks had approximately 8 and 10 inches of clearance from the tank bottom, respectively.
2. Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 27, 2010. Specifically, the Stage II testing indicated a vapor leak in the vapor recovery system.
3. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE §

382.085(b), as documented during an investigation conducted on May 27, 2010. Specifically, the Stage II annual testing was not successfully completed on February 23, 2010.

4. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(4) and (7)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 27, 2010. Specifically, the Stage II Station representative and employee in-house training records were not available for inspection.
5. Failed to ensure that all release detection equipment installed as part of a UST system is maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.48(e), as documented during an investigation conducted on May 27, 2010. Specifically, the mechanical line leak detector on the regular unleaded tank was not functioning.
6. Failed to test the line leak detector at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on May 27, 2010. Specifically, the line leak detector on the regular unleaded tank was not successfully tested by the due date of February 3, 2010.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MURPHY OIL USA, INC. dba Murphy USA 7437, Docket No. 2010-1025-PST-E" to:

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

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

- i. Install drop tubes that do not exceed six inches from the bottom of the tank, in accordance with 30 TEX. ADMIN. CODE § 115.222;
 - ii. Repair the vapor leak in the Stage II vapor recovery system and begin maintaining it in proper operating condition, in accordance with 30 TEX. ADMIN. CODE § 115.242;
 - iii. Conduct the required annual testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and
 - iv. Repair or replace the line leak detector and successfully conduct the required annual testing of the line leak detector, and begin maintaining all release detection equipment in proper operating condition, in accordance with 30 TEX. ADMIN. CODE §§ 334.50 and 334.48, respectively.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.iv. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallies
For the Executive Director

12/21/2010
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Brad Weinischke
Signature

9/24/2010
Date

Brad Weinischke
Name (Printed or typed)
Authorized Representative of
MURPHY OIL USA, INC. dba Murphy USA 7437

Environmental Compliance
Title

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