

Executive Summary – Enforcement Matter – Case No. 41095
SIBER ENTERPRISE, INC. dba Star Food N Grocery
RN101273993
Docket No. 2011-0185-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Star Food N Grocery, 6835 East Mount Houston Road, Houston, Harris County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 29, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,905

Amount Deferred for Expedited Settlement: \$581

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$124

Total Due to General Revenue: \$2,200

Payment Plan: The remaining amount of \$2,200 will be payable in 22 monthly payments of \$100 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

**Executive Summary – Enforcement Matter – Case No. 41095
SIBER ENTERPRISE, INC. dba Star Food N Grocery
RN101273993
Docket No. 2011-0185-PST-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 10, 2010
Date(s) of NOE(s): January 21, 2011

Violation Information

1. Failed to equip each separate pressurized line with an automatic line leak detector. Specifically, the diesel piping was not equipped with a line leak detector [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i) and TEX. WATER CODE § 26.3475(a)].
2. Failed to design, install, and operate all components of an underground storage tank (“UST”) system in a manner that will prevent releases of regulated substances due to structural failure for as long as the UST system is used to store regulated substances. Specifically, nozzle no. 5 was leaking diesel [30 TEX. ADMIN. CODE § 334.42(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:

- a. Installed a line leak detector on the diesel piping on November 19, 2010; and
- b. Installed a new nozzle on nozzle no. 5 on November 19, 2010.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Mr. Tate Barrett, Enforcement Division, Enforcement Team 7, MC R-12, (713) 422-8968; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A

Executive Summary – Enforcement Matter – Case No. 41095
SIBER ENTERPRISE, INC. dba Star Food N Grocery
RN101273993
Docket No. 2011-0185-PST-E

Respondent: Mr. Barkat Ali, Director, Star Food N Grocery, 6835 East Mount
Houston Road, Houston, Texas 77050

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-Jan-2011	Screening	24-Jan-2011	EPA Due	
	PCW	28-Jan-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	SIBER ENTERPRISE, INC. dba Star Food N Grocery		
Reg. Ent. Ref. No.	RN101273993		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41095	No. of Violations	2	
Docket No.	2011-0185-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No	
Multi-Media		Enf. Coordinator	Tate Barrett	
		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** **\$3,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **8.0%** Enhancement **Subtotals 2, 3, & 7** **\$280**

Notes: Enhancement for four previous NOVs with dissimilar violations.

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** **\$875**

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

Total EB Amounts: \$1
 Approx. Cost of Compliance: \$471
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,905**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$2,905**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$2,905**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$581**

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 **\$2,324**

Screening Date 24-Jan-2011

Docket No. 2011-0185-PST-E

PCW

Respondent SIBER ENTERPRISE, INC. dba Star Food N Grocer

Policy Revision 2 (September 2002)

Case ID No. 41095

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101273993

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tate Barrett

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>)	0	0%
	Other written NOVs	4	8%
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) 8%

>> **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 four previous NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 8%

Screening Date 24-Jan-2011

Docket No. 2011-0185-PST-E

PCW

Respondent SIBER ENTERPRISE, INC. dba Star Food N Grocery

Policy Revision 2 (September 2002)

Case ID No. 41095

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101273993

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tate Barrett

Violation Number 1

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

Violation Description Failed to equip each separate pressurized line with an automatic line leak detector. Specifically, the diesel piping was not equipped with a line leak detector.

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 Number of violation days 9

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

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the November 10, 2010 investigation to the November 19, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent came into compliance on November 19, 2010, prior to the January 21, 2011 Notice of Enforcement ("NOE").

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,075

This violation Final Assessed Penalty (adjusted for limits) \$2,075

Economic Benefit Worksheet

Respondent SIBER ENTERPRISE, INC. dba Star Food N Grocery
Case ID No. 41095
Reg. Ent. Reference No. RN101273993
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	\$342	10-Nov-2010	19-Nov-2010	0.02	\$0	\$1	\$1
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

Actual cost (per invoice) to install automatic line leak detector (\$342). The date required is the investigation date and the 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

\$342

TOTAL

\$1

Screening Date 24-Jan-2011

Docket No. 2011-0185-PST-E

PCW

Respondent SIBER ENTERPRISE, INC. dba Star Food N Grocery

Policy Revision 2 (September 2002)

Case ID No. 41095

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101273993

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Tate Barrett

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.42(a)

Violation Description

Failed to design, install, and operate all components of an underground storage tank ("UST") system in a manner that will prevent releases of regulated substances due to structural failure for as long as the UST system is used to store regulated substances. Specifically, nozzle no. 5 was leaking diesel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Matrix Notes	Harm			Percent
	Major	Moderate	Minor	
Human health or the environment has been exposed to insignificant amounts or pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				0%

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 9

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

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the November 10, 2010 investigation to the November 19, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes The Respondent came into compliance on November 19, 2010, prior to the January 21, 2011 NOE.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$830

This violation Final Assessed Penalty (adjusted for limits) \$830

Economic Benefit Worksheet

Respondent SIBER ENTERPRISE, INC. dba Star Food N Grocery
Case ID No. 41095
Reg. Ent. Reference No. RN101273993
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$129	10-Nov-2010	19-Nov-2010	0.02	\$0	\$0
Buildings				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0
Engineering/construction				0.00	\$0	\$0
Land				0.00	\$0	n/a
Record Keeping System				0.00	\$0	n/a
Training/Sampling				0.00	\$0	n/a
Remediation/Disposal				0.00	\$0	n/a
Permit Costs				0.00	\$0	n/a
Other (as needed)				0.00	\$0	n/a

Notes for DELAYED costs

Actual cost (per invoice) to replace the nozzle at pump no. 5. The date required is the date of the investigation and the 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
Personnel				0.00	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0
Supplies/equipment				0.00	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$129

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN602285553 SIBER ENTERPRISE, INC. Classification: AVERAGE Rating: 0.75
Regulated Entity: RN101273993 Star Food N Grocery Classification: AVERAGE Site Rating: 0.75

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012334
PETROLEUM STORAGE TANK REGISTRATION 39774
REGISTRATION

Location: 6835 E MOUNT HOUSTON RD, HOUSTON, TX, 77050

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 24, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 24, 2006 to January 24, 2011

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

Name: Tate Barrett Phone: (713) 422-8968

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	11/28/2006	(532063)
2	01/30/2007	(532531)
3	07/18/2007	(566573)
4	01/14/2008	(614110)
5	04/15/2007	(644399)
6	07/01/2007	(645047)
7	01/21/2011	(878139)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 01/26/2007 (532531)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)
Description: Failure to make available sanitary control easements for the well at the time of inspection.

Date: 04/15/2007 (644399)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(4)
Description: BACT - MONITORING/REPORTING VIOLATIONS

Date: 07/01/2007 (645047)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(1)(A)
Description: PUBLIC NOTICE

Date: 01/14/2008 (614110)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)
Description: Failing to discontinue the use of the system after failing a Stage II system test.

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
SIBER ENTERPRISE, INC. DBA
STAR FOOD N GROCERY
RN101273993**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0185-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 SIBER ENTERPRISE, INC. dba Star Food N Grocery ("the Respondent") under the authority of 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 6835 East Mount Houston Road in Houston, Harris County, Texas (the "Facility").
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.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 26, 2011.
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 Two Thousand Nine Hundred Five Dollars (\$2,905) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Twenty-Four Dollars (\$124) of the administrative penalty and Five Hundred Eighty-One Dollars (\$581) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Two Hundred Dollars (\$2,200) of the administrative penalty shall be payable in 22 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Installed a line leak detector on the diesel piping on November 19, 2010; and
 - b. Installed a new nozzle on nozzle no. 5 on November 19, 2010.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to equip each separate pressurized line with an automatic line leak detector, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on November 10, 2010. Specifically, the diesel piping was not equipped with a line leak detector.
2. Failed to design, install, and operate all components of a UST system in a manner that will prevent releases of regulated substances due to structural failure for as long as the UST system is used to store regulated substances, in violation of 30 TEX. ADMIN. CODE § 334.42(a), as documented during an investigation conducted on November 10, 2010. Specifically, nozzle no. 5 was leaking diesel.

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: SIBER ENTERPRISE, INC. dba Star Food N Grocery, Docket No. 2011-0185-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. 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 Site operations referenced in this Agreed Order.
3. 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.

4. 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.
5. 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.
6. 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.
7. 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.

SIBER ENTERPRISE, INC. dba Star Food N Grocery
DOCKET NO. 2011-0185-PST-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szellin
For the Executive Director

4/29/2011
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;
- Denial or delay of any permit applications submitted;
- Assessment of civil penalties, criminal penalties, injunctive relief, administrative penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Assessment of civil penalties, criminal penalties or any future enforcement actions, and
- Denial of any relief or abatement by law.

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

Barkat Ali
Signature

3/17/11
Date

BARKAT ALI
Name (Printed or typed)
Authorized Representative of
SIBER ENTERPRISE, INC. dba Star Food N Grocery

MANAGER
Title

Instructions: Send the original, signed copies of this order to the appropriate enforcement division, Revenue Section at the address in Section 27, 28 and 29 of the order.