

Executive Summary – Enforcement Matter – Case No. 41107
STRAWBERRY FOOD, LLC dba Strawberry Food Mart
RN101833630
Docket No. 2011-0200-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Strawberry Food Mart, 2302 Strawberry Road, Pasadena, 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: June 3, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$4,630

Amount Deferred for Expedited Settlement: \$926

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$204

Total Due to General Revenue: \$3,500

Payment Plan: 35 payments of \$100 each

SEP Conditional Offset: \$0

Name of SEP: N/A

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. 41107
STRAWBERRY FOOD, LLC dba Strawberry Food Mart
RN101833630
Docket No. 2011-0200-PST-E**

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 26, 2010 and November 15, 2010

Date(s) of NOE(s): January 18, 2011

Violation Information

1. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with an underground storage tank system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, and free of liquid and debris. Specifically, the super unleaded spill bucket contained liquid [30 TEX. ADMIN. CODE § 334.42(i)].
2. Failed to make Stage II records immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual compliance test had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

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

- a. Conducted the required annual testing of the Stage II equipment on September 10, 2010, with passing results;
- b. Submitted compliance documentation to the Houston Regional Office on December 20, 2010, certifying that the bimonthly inspections of the overfill equipment were being conducted and proper removal and disposal of the accumulated liquid; and
- c. Began maintaining all Stage II records at the Station on February 10, 2011.

Technical Requirements:

N/A

**Executive Summary – Enforcement Matter – Case No. 41107
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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: Danielle Porras, Enforcement Division,
Enforcement Team 7, MC R-12, (713) 767-3682; Laurie Eaves, Enforcement Division,
MC 219, (512) 239-4495
TCEQ SEP Coordinator: N/A
Respondent: Sohail Ladhani, Director, STRAWBERRY FOOD, LLC, 11930 Natural
Bridges Lane, Sugar Land, Texas 77478
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	31-Jan-2011	Screening	1-Feb-2011	EPA Due	
	PCW	4-Mar-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	STRAWBERRY FOOD, LLC dba Strawberry Food Mart		
Reg. Ent. Ref. No.	RN101833630		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41107	No. of Violations	3
Docket No.	2011-0200-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes

Culpability Enhancement **Subtotal 4**

Notes

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

Economic Benefit Enhancement* **Subtotal 6**

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

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

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 1-Feb-2011

Docket No. 2011-0200-PST-E

PCW

Respondent STRAWBERRY FOOD, LLC dba Strawberry Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41107

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101833630

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

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>)	2	10%
	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) 10%

>> 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 two previous NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 1-Feb-2011

Docket No. 2011-0200-PST-E

PCW

Respondent STRAWBERRY FOOD, LLC dba Strawberry Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41107

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101833630

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 1

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

Violation Description Failed to inspect all sumps, manways, overflow containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, and free of liquid and debris. Specifically, the super unleaded spill bucket contained liquid.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential		x		10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 35

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 from the November 15, 2010 investigation date to the December 20, 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 December 20, 2010, prior to the Notice of Enforcement ("NOE") dated January 18, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$990

This violation Final Assessed Penalty (adjusted for limits) \$990

Economic Benefit Worksheet

Respondent STRAWBERRY FOOD, LLC dba Strawberry Food Mart
Case ID No. 41107
Reg. Ent. Reference No. RN101833630
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	16-Sep-2010	20-Dec-2010	1.18	\$6	\$100	\$106
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins, and proper disposal of the liquid. The Date Required is 60 days before the investigation date and Final Date is the date of compliance.

Approx. Cost of Compliance

\$100

TOTAL

\$106

Screening Date 1-Feb-2011

Docket No. 2011-0200-PST-E

PCW

Respondent STRAWBERRY FOOD, LLC dba Strawberry Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41107

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101833630

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.246(7)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to make Stage II records immediately available for review upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the November 15, 2010 investigation.

Good Faith Efforts to Comply

10.0% Reduction \$100

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

Notes The Respondent came into compliance on February 10, 2011, after to the NOE dated January 18, 2011.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$1,165

This violation Final Assessed Penalty (adjusted for limits) \$1,165

Economic Benefit Worksheet

Respondent STRAWBERRY FOOD, LLC dba Strawberry Food Mart
Case ID No. 41107
Reg. Ent. Reference No. RN101833630
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
<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	\$500	15-Nov-2010	10-Feb-2011	0.24	\$6	n/a	\$6
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain Stage II records at the Station. 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 \$500

TOTAL \$6

Screening Date 1-Feb-2011

Docket No. 2011-0200-PST-E

PCW

Respondent STRAWBERRY FOOD, LLC dba Strawberry Food Mart

Policy Revision 2 (September 2002)

Case ID No. 41107

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101833630

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

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 compliance test had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes Human health or the environment will or could be exposed to 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 365

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

Violation Base Penalty \$2,500

One annual event is recommended for the 12-month period preceding the August 26, 2010 investigation 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 September 10, 2010, prior to the NOE dated January 18, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$549

Violation Final Penalty Total \$2,475

This violation Final Assessed Penalty (adjusted for limits) \$2,475

Economic Benefit Worksheet

Respondent STRAWBERRY FOOD, LLC dba Strawberry Food Mart
Case ID No. 41107
Reg. Ent. Reference No. RN101833630
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
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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				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	26-Aug-2009	10-Sep-2010	1.96	\$49	\$500	\$549
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for annual testing of the Stage II equipment. The Date Required is one year prior to the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance \$500

TOTAL \$549

Compliance History

Customer/Respondent/Owner-Operator:	CN603635624 STRAWBERRY FOOD, LLC	Classification: Average	Rating: 2.33
Regulated Entity:	RN101833630 Strawberry Food Mart	Classification: Average	Site Rating: 2.33
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	16435
Location:	2302 STRAWBERRY RD, PASADENA, TX, 77502		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	February 01, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 01, 2006 to February 01, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Danielle Porras</u>	Phone:	<u>(713) 767-3682</u>

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OWN	Strawberry Realty Company
OPR	STRAWBERRY FOOD, LLC
4. If Yes, who was/were the prior owner(s)/operator(s)?

OWNOPR	Strawberry Realty Company
OWNOPR	Sellers Bros. Inc.
5. When did the change(s) in owner or operator occur?

03/01/2008	OWNOPR	Sellers Bros. Inc.
02/01/2010	OWNOPR	Strawberry Realty Company
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	09/11/2007	(568123)
2	02/12/2010	(789386)
3	10/12/2010	(850723)
4	11/23/2010	(877401)
5	01/28/2011	(891809)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	09/11/2007 (568123)	CN603635624
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.244(1)	
Description:	30 TAC '115.244 (1) - Failure to conduct daily inspections for the Stage II Vapor Recovery system. These inspections shall include the applicable portions of Section 115.242(4) and Section 115.242(3)(A)-(F), (H)-(I).	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.244(3)	
Description:	30 TAC '115.244 (3) - Failure to conduct a monthly inspection of the components listed in 115.242(3)(J). These components include: any pressure/vacuum relief valves, vapor check valves and Stage I dry breaks.	

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
Description: 30 TAC '115.246 (5) - Failure to maintain a record of results of testing conducted at the facility according to 115.245 (Testing Requirements).
Date 10/12/2010 (850723) CN603635624

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.42(i)
Description: Failure to ensure that 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 are inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)
Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the TCEQ, EPA, or any local air pollution control program with jurisdiction.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)
Description: Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II 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
STRAWBERRY FOOD, LLC DBA
STRAWBERRY FOOD MART
RN101833630**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0200-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 STRAWBERRY FOOD, LLC dba Strawberry Food Mart ("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 operates a convenience store with retail sales of gasoline at 2302 Strawberry Road in Pasadena, Harris County, Texas (the "Station").
2. The Station's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 23, 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 Four Thousand Six Hundred Thirty Dollars (\$4,630) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Four Dollars (\$204) of the administrative penalty and Nine Hundred Twenty-Six Dollars (\$926) 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 Three Thousand Five Hundred Dollars (\$3,500) of the administrative penalty shall be payable in 35 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 Station:
 - a. Conducted the required annual testing of the Stage II equipment on September 10, 2010, with passing results;
 - b. Submitted compliance documentation to the Houston Regional Office on December 20, 2010, certifying that the bimonthly inspections of the overfill equipment were being conducted and proper removal and disposal of the accumulated liquid; and
 - c. Began maintaining all Stage II records at the Station on February 10, 2011.
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 operator of the Station, the Respondent is alleged to have:

1. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, and free of liquid and debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on November 15, 2010. Specifically, the super unleaded spill bucket contained liquid.
2. Failed to make Stage II records immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on November 15, 2010.
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 August 26, 2010. Specifically, the Stage II annual compliance test had not been conducted.

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: STRAWBERRY FOOD, LLC dba Strawberry Food Mart, Docket No. 2011-0200-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 Station 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date

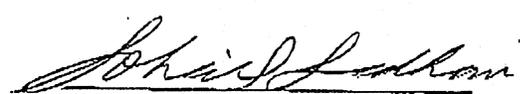
6/24/2011

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

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

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

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



Signature

Date

5-2-2011

SOHAIL LADHANI

Title

director

Name (Printed or typed)

Authorized Representative of

STRAWBERRY FOOD, LLC dba Strawberry Food Mart

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.