Executive Summary – Enforcement Matter – Case No. 38491
Elim Gas Station Corporation d/b/a Speed Max 4
RN101564391
Docket No. 2009-1631-PST-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
301 Legacy Drive in Plano, Collin County

Type of Operation:
convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: June 24, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: $17,179

Amount Deferred for Expedited Settlement: N/A

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: $554

Total Due to General Revenue: $16,625
Payment Plan: 35 payments of $475 each

SEP Conditional Offset: N/A

Compliance History Classifications:
Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: September 22, 2009

Date(s) of NOV(s): January 12, 2006

Date(s) of NOE(s): September 25, 2009

Violation Information

1. Failed to maintain UST records and make them immediately available for inspection upon request by TCEQ personnel [30 TEX. ADMIN. CODE § 334.10(b)].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
3. Failed to provide proper release detection for the pressurized piping associated with the USTs in that Respondent did not conduct the annual piping tightness test; failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(b), (b)(1)(A), (b)(2)(A)(i)(III), (d)(1)(B)(ii), (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a)(1) and (c)(1)].
4. Failed to maintain Stage II records at the Station [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
5. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operating procedures of the Stage II equipment [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
6. Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
7. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
8. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
9. Failed to ensure that a legible tag, label, or marking with the UST identification number listed on the UST registration and self-certification form is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube of each UST according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Conducted annual piping tightness test and tested the line leak detectors for performance and operational reliability on September 30, 2009 (violation 3);
2. At least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system and each current employee received in-house Stage II vapor recovery training regarding the purpose and correct operating procedures of the Stage II equipment on September 30, 2009 (violation 5);
3. Conducted annual testing of the Stage II equipment with passing results on September 30, 2009 (violation number 6);
4. Posted operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system on or before February 18, 2011 (violation 7);
5. Obtained a valid TCEQ PST delivery certificate on or about September 30, 2009 (violation 8); and
6. Demonstrated that a legible tag, label, or marking with the UST identification number listed on the UST registration and self-certification form is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube of each UST according to the UST registration and self-certification form on or before February 18, 2011 (violation 9).

Technical Requirements:

1. Within 30 days:
   a. Begin maintaining all required UST records (violation 1);
   b. Begin maintaining all Stage II records at the Station (violation 4); and
   c. Install and implement a release detection method for all USTs and the piping associated with the USTs, and begin conducting volume measurement and reconcilitation of inventory control records (violation 3).
2. Within 60 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed:	March 12, 2010
Date Answer(s) Filed:	August 31, 2010
SOAH Referral Date:	October 21, 2010
Hearing Date(s):	
Preliminary hearing:	December 16, 2010 (waived)
Evidentiary hearing:	June 16, 2011
Settlement Date:	June 6, 2011

Contact Information

TCEQ Attorneys: Gary K. Shiu, Litigation Division, (713) 422-8916
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Danielle Porras, Waste Enforcement Section, (713) 767-3682

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903

Respondent: Im S. Kim, President, Elim Gas Station Corporation, 13123 Kerr Trail, Farmers Branch, Texas 75244

Respondent's Attorney: J. Hamilton McMenamy, The Law Offices of J. Hamilton McMenamy, P.C. 8222 Douglas Ave., Ste. 850, One Preston Centre, Dallas, Texas 75225

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision October 30, 2008*

TCEQ

DATES					
Assigned	28-Sep-2009				
PCW	1-Jun-2011	Screening	6-Oct-2009	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Elim Gas Station Corporation dba Speed Max 4		
Reg. Ent. Ref. No.	RN101564391		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38491	No. of Violations	9
Docket No.	2009-1631-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* **$14,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **5.0%** Enhancement *Subtotals 2, 3, & 7* **$725**

Notes: Enhancement for one NOV with same or similar 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* **$350**

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

Total EB Amounts $2,413
Approx. Cost of Compliance $5,350

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$14,875**

OTHER FACTORS AS JUSTICE MAY REQUIRE **15.5%** *Adjustment* **$2,304**

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, 6, and 8.

Final Penalty Amount **$17,179**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$17,179**

DEFERRAL **0.0%** Reduction *Adjustment* **$0**

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **$17,179**

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
Case ID No.	38491			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101564391			
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 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%
		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
Case ID No.	38491			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 1

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

Violation Description Failed to maintain Underground Storage Tank ("UST") records and make them immediately available for inspection upon request by agency personnel.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

14 Number of violation days

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 September 22, 2009 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 $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $19

Statutory Limit Test

Violation Final Penalty Total $1,213

This violation Final Assessed Penalty (adjusted for limits) $1,213

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
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	$500	22-Sep-2009	3-Jul-2010	0.78	$19	n/a	$19
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to maintain UST records. The date required is the investigation date and the final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	$500	TOTAL	$19

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
Case ID No.	38491			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, five fuel deliveries were accepted without a delivery certificate.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actua			
Potentia			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $9,500

$500

Violation Events

Number of Violation Events 5 | 5 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

Five single events are recommended for accepting five deliveries of fuel.

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

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $3,032

This violation Final Assessed Penalty (adjusted for limits) $3,032

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Economic benefit included in violation no. 8.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $0

TOTAL $0

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
Case ID No.	38491			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 3

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

Violation Description Failed to provide proper release detection for the pressurized piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for regulated substance inputs, withdrawals, and amount still remaining in the tank each operating day.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>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 — 14 Number of violation days

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 September 22, 2009 investigation to the October 6, 2009 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $1,155

Statutory Limit Test

Violation Final Penalty Total $3,032

This violation Final Assessed Penalty (adjusted for limits) $3,032

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$1,500	22-Sep-2009	3-Jul-2010	0.78	$58	n/a	$58
Notes for DELAYED costs	Estimated cost to provide a method of release detection for the UST system including volume measurement and reconciliation of inventory control records. The date required is the investigation date and the final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$1,000	22-Sep-2008	30-Sep-2009	1.94	$97	$1,000	$1,097
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated cost of conducting annual line leak detector and piping tightness tests. The date required is one year prior to the investigation date and the final date is the compliance date.						

Approx. Cost of Compliance	$2,500	TOTAL	$1,155

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
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Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 4

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

Violation Description Failed to maintain Stage II records at the Station.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actua			
Potentia			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 14 Number of violation days

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 September 22, 2009 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 $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $19

Statutory Limit Test

Violation Final Penalty Total $1,213

This violation Final Assessed Penalty (adjusted for limits) $1,213

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	22-Sep-2009	3-Jul-2010	0.78	$19	n/a	$19
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to maintain Stage II records. 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 $19

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
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Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operating procedures of the Stage II equipment.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actua			
Potentia		x	

Harm

Percent 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 | 8 Number of violation days

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 September 22, 2009 investigation to the September 30, 2009 compliance date.

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 Sepetmber 30, 2009, after the NOE dated September 25, 2009.

Violation Subtotal $900

Economic Benefit (EB) for this violation

Estimated EB Amount $1

Statutory Limit Test

Violation Final Penalty Total $1,097

This violation Final Assessed Penalty (adjusted for limits) $1,097

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling	$500	22-Sep-2009	30-Sep-2009	0.02	$1	n/a	$1
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 of training a Station representative and employees in Stage II procedures. 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	$1

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
Case ID No.	38491			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 6

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 or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual system compliance testing had not been conducted.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actua			
Potentia	x		

Harm

Percent 25%

>>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 | 365 Number of violation days

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 the12-month period preceding the September 22, 2009 investigation.

Good Faith Efforts to Comply

10.0% Reduction — $250

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

Notes: The Respondent came into compliance on Sepetmber 30, 2009, after the NOE dated September 25, 2009.

Violation Subtotal $2,250

Economic Benefit (EB) for this violation

Estimated EB Amount $1,097

Statutory Limit Test

Violation Final Penalty Total $2,743

This violation Final Assessed Penalty (adjusted for limits) $2,743

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				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]	$1,000	22-Sep-2008	30-Sep-2009	1.94	$97	$1,000	$1,097
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost for annual testing to verify proper operation of the Stage II equipment. The date required is one year prior to the investigation and the final date is the compliance date.						

Approx. Cost of Compliance $1,000

TOTAL $1,097

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
Case ID No.	38491			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 115.242(9) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actua			
Potentia		x	

Percent 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

1 — 14 Number of violation days

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 September 22, 2009 investigation to the October 6, 2009 screening date.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $1,213

This violation Final Assessed Penalty (adjusted for limits) $1,213

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
Media Petroleum Storage Tank
Violation No. 7

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)	$50	22-Sep-2009	3-Jul-2010	0.78	$2	n/a	$2
Notes for DELAYED costs	Estimated cost to post operating instructions on each dispensing pump. The date required is the investigation date and the final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $50

TOTAL $2

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
Case ID No.	38491			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2008.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actua			
Potentia			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

2 — 730 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,000

Two single events are recommended.

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 $2,000

Economic Benefit (EB) for this violation

Estimated EB Amount $114

Statutory Limit Test

Violation Final Penalty Total $2,425

This violation Final Assessed Penalty (adjusted for limits) $2,425

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
Media Petroleum Storage Tank
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.00	$0	$0	$0
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$100	2-Aug-2009	3-Jul-2010	0.92	$5	n/a	$5

Notes for DELAYED costs: Estimated cost to renew a delivery certificate by submitting a properly completed UST Registration and Self-Certification form. The Date Required is the beginning of the current year requiring a delivery certificate and the Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$100	1-Aug-2008	1-Aug-2009	1.92	$10	$100	$110
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs: Estimated avoided cost to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate. Date Required is 30 days prior to the expiration date of the delivery certificate and the Final Date is the last full year date.

Approx. Cost of Compliance $200

TOTAL $114

Screening Date	6-Oct-2009	**Docket No.**	2009-1631-PST-E	**PCW**
Respondent	Elim Gas Station Corporation dba Speed Max 4			*Policy Revision 2 (September 2002)*
Case ID No.	38491			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN101564391			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Danielle Porras			

Violation Number 9

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description Failed to ensure that a leg ble tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actua			
Potentia			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events: 1 — 14 Number of violation days

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 September 22, 2009 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 $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $1,213

This violation Final Assessed Penalty (adjusted for limits) $1,213

Economic Benefit Worksheet

Respondent Elim Gas Station Corporation dba Speed Max 4
Case ID No. 38491
Reg. Ent. Reference No. RN101564391
Media Petroleum Storage Tank
Violation No. 9

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)	$100	22-Sep-2009	3-Jul-2010	0.78	$0	$5	$5
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 label the tank fill tubes. The date required is the investigation date and the final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	$100	TOTAL	$5

Compliance History Report

Customer/Respondent/Owner-Operator: CN600828461 Elim Gas Station Corporation Classification: AVERAGE Rating: 2.00
Regulated Entity: RN101564391 Speed Max 4 Classification: AVERAGE Site Rating: 2.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 66634
Location: 301 LEGACY DR, PLANO, TX, 75023
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: September 29, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: September 29, 2004 to September 29, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Brianna Carlson Phone: 956/430-6021

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: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site:

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

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 01/12/2006 (450263)
2 04/17/2006 (462659)
3 09/25/2009 (776912)

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

Date: 01/12/2006 (450263)
Self Report? NO Classification: Moderate
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 Texas Commission on Environmental Quality (TCEQ).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)
Description: Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the Texas Commission on Environmental Quality (TCEQ).

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

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING ELIM GAS STATION CORPORATION D/B/A SPEED MAX 4; RN101564391	**§ § § § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2009-1631-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Elim Gas Station Corporation d/b/a Speed Max 4 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by J. Hamilton McMenamy of the Law Offices of J. Hamilton McMenamy, P.C., appear before the Commission and together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline at 301 Legacy Drive in Plano, Collin County, Texas (the "Station"). The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.

3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.

4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

5. An administrative penalty in the amount of seventeen thousand one hundred seventy-nine dollars ($17,179.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid five hundred fifty-four dollars

($554.00) of the administrative penalty. The remaining amount of sixteen thousand six hundred twenty-five dollars ($16,625.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of four hundred seventy-five dollars ($475.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

7. The Executive Director of the TCEQ and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.

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

   a. Conducted the annual piping tightness test and tested the line leak detectors for performance and operational reliability on September 30, 2009 (Allegation No. 1.c.);

   b. At least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system and each current employee received in-house Stage II vapor recovery training regarding the purpose and correct operating procedures of the Stage II equipment on September 30, 2009 (Allegation No. 1.e.);

   c. Conducted annual testing of the Stage II equipment with passing results on September 30, 2009 (Allegation No. 1.f.);

   d. Posted operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system on or before February 18, 2011 (Allegation No. 1.g.); and

   e. Obtained a valid TCEQ PST delivery certificate on or about September 30, 2009, which was renewed on August 9, 2010 (Allegation No. 1.h.);

   f. Demonstrated that a legible tag, label, or marking with the UST identification number listed on the UST registration and self-certification form is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube of each UST according to the UST registration and self-certification form on or before February 18, 2011 (Allegation No. 1.i.);

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 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

1. During an investigation conducted on September 22, 2009, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:

   a. Failed to maintain UST records and make them immediately available for inspection upon request by TCEQ personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b);

   b. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, five fuel deliveries were accepted without a delivery certificate, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a);

   c. Failed to provide proper release detection for the pressurized piping associated with the USTs in that Respondent did not conduct the annual piping tightness test; failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for regulated substance inputs, withdrawals, and amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(b), (b)(1)(A), (b)(2)(A)(i)(III), (d)(1)(B)(ii), (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a)(1) and (c)(1);

   d. Failed to maintain Stage II records at the Station, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b);

   e. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operating procedures of the Stage II equipment, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b);

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

whichever occurs first. Specifically, the Stage II annual system compliance testing had not been conducted, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b);

g. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b);

h. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, Respondent's delivery certificate expired on August 31, 2008, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii); and

i. Failed to ensure that a legible tag, label, or marking with the UST identification number listed on the UST registration and self-certification form is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube of each UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).

2. Respondent received notice of the violations on or about September 30, 2009.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Elim Gas Station Corporation d/b/a Speed Max 4, Docket No. 2009-1631-PST-E" to:

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

2. Respondent shall undertake the following technical requirements:

a. Within 30 days after the effective date of this Agreed Order, Respondent shall:

i. Begin maintaining all required UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10 (Allegation No. 1.a.);

ii. Begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246 (Allegation No. 1.d.); and

iii. Install and implement a release detection method for all USTs and the piping associated with the USTs, and begin conducting volume measurement and reconcilitation of inventory control records, in accordance with TEX. ADMIN. CODE § 334.50 (Allegation No. 1.c.).

c. Within 60 days after the effective date of this Agreed Order, Respondent shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2. 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:

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

3. All relief not expressly granted in this Agreed Order is denied.

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

5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to

the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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

9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

6/28/2011
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of Elim Gas Station Corporation d/b/a Speed Max 4, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

Im S. Kim, President
Elim Gas Station Corporation

6/6/2011
Date