

Executive Summary – Enforcement Matter – Case No. 40859
SIMONE STORES INC D/B/A MILLENNIUM GROCERY
RN101874600
Docket No. 2010-2032-PST-E

Order Type:
Agreed Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
770 South Pine Street, Kountze, Hardin 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: December 30, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$8,622

Amount Deferred for Financial Inability to Pay: N/A

Total Paid to General Revenue: \$257

Total Due to General Revenue: \$8,365

Payment Plan: 35 payments of \$239 each

SEP Conditional Offset: N/A

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

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: October 21, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): December 9, 2010

Violation Information

1. Failed to conduct monthly inspections of the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to maintain Stage II records at the Station [30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to submit the Stage II vapor recovery system test results to the appropriate regional office or the local air pollution control program with jurisdiction within 10 working days of the completion of the tests [30 TEX. ADMIN. CODE § 115.245(6) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to maintain the Stage II vapor recovery system in proper operating condition [30 TEX. ADMIN. CODE § 115.242(3)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
5. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 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)].
6. Failed to ensure that a legible tag, label, or marking with the UST identification 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 [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].
7. 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 [30 TEX. ADMIN. CODE § 334.42(i)].
8. Failed to provide accurate information on the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.7(f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Submitted compliance documentation to the Beaumont Regional Office on November 15, 2010, certifying that monthly inspections of the Stage II vapor recovery system are being conducted (Violation No. 1);
2. Submitted compliance documentation to the Beaumont Regional Office on November 15, 2010, certifying that the correct California Air Resources Board ("CARB") Executive Order is being maintained at the Station (Violation No. 2);
3. Submitted the required Stage II test results to the Beaumont Regional Office on November 15, 2010 (Violation No. 3);
4. Replaced the torn dispenser nozzle boot on October 28, 2010 (Violation No. 4);
5. Conducted the annual Stage II tests, with passing results, on October 21, 2010 (Violation No. 5);

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SIMONE STORES INC D/B/A MILLENNIUM GROCERY
RN101874600
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6. Submitted compliance documentation to the Beaumont Regional Office on November 16, 2010, certifying that the USTs have been properly labeled (Violation No. 6);
7. Submitted compliance documentation to the Beaumont Regional Office on November 16, 2010, certifying that the bimonthly inspections of the overspill equipment are being conducted and the liquid has been removed from the spill buckets (Violation No. 7); and
8. Submitted compliance documentation to the Beaumont Regional Office on November 16, 2010, certifying that the UST registration was amended to update the correct UST material and corrosion protection (Violation No. 8).

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: April 20, 2011
Date Answer(s) Filed: April 28, 2011
SOAH Referral Date: May 31, 2011
Hearing Date(s):
Preliminary hearing: July 28, 2011 (waived)
Evidentiary hearing: November 15, 2011 (scheduled)
Settlement Date: November 7, 2011

Contact Information

TCEQ Attorneys: Xavier Guerra, Litigation Division, (512) 239-3400
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: Derek Eades, Beaumont Regional Office, (409) 898-3838

Respondent: Mohammed Ali Tejani, President, SIMONE STORES INC, P.O. Box 1307, Kountze, Texas 77625-1307

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	13-Dec-2010	Screening	15-Dec-2010	EPA Due	
	PCW	18-Mar-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	SIMONE STORES INC dba Millennium Grocery					
Reg. Ent. Ref. No.	RN101874600					
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	40859	No. of Violations	8			
Docket No.	2010-2032-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	\$10,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,625
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$760	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,493	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	9.5%	Adjustment	\$747
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided costs of compliance associated with violation nos. 1, 5, and 7.

Final Penalty Amount	\$8,622
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,622
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$8,622
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Screening Date 15-Dec-2010

Docket No. 2010-2032-PST-E

PCW

Respondent SIMONE STORES INC dba Millennium Grocery

Policy Revision 2 (September 2002)

Case ID No. 40859

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874600

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>)	0	0%
	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) 0%

>> 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

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 15-Dec-2010

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Respondent SIMONE STORES INC dba Millennium Grocery

Policy Revision 2 (September 2002)

Case ID No. 40859

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s) 30 Tex. Admin Code § 115.244(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct monthly inspections of the Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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 26 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the October 21, 2010 investigation date to the November 15, 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)

The Respondent came into compliance on November 15, 2010, prior to the Notice of Enforcement ("NOE") dated December 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$821

This violation Final Assessed Penalty (adjusted for limits) \$821

Economic Benefit Worksheet

Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Req. Ent. Reference No. RN101874600
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	21-Sep-2010	15-Nov-2010	1.07	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct the required inspections of the components of the Stage II vapor recovery system. The Date Required is one month prior to the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance \$100

TOTAL \$105

Screening Date 15-Dec-2010

Docket No. 2010-2032-PST-E

PCW

Respondent SIMONE STORES INC dba Millennium Grocery

Policy Revision 2 (September 2002)

Case ID No. 40859

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.246(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records at the Station. Specifically, the Respondent did not maintain a copy of the California Air Resources Board Executive Order.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (10%).

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 26

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the October 21, 2010 investigation.

Good Faith Efforts to Comply

25.0% Reduction \$250

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A.

Notes The Respondent came into compliance on November 15, 2010, prior to the NOE dated December 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$821

This violation Final Assessed Penalty (adjusted for limits) \$821

Economic Benefit Worksheet

Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Req. Ent. Reference No. RN101874600
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	21-Oct-2010	15-Nov-2010	0.07	\$2	n/a	\$2
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

\$2

Screening Date 15-Dec-2010

Docket No. 2010-2032-PST-E

PCW

Respondent SIMONE STORES INC dba Millennium Grocery

Policy Revision 2 (September 2002)

Case ID No. 40859

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.245(6) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to submit the Stage II vapor recovery system test results to the appropriate regional office or the local air pollution control program with jurisdiction within 10 working days of the completion of the tests. Specifically, the Respondent did not submit the test results for the tests conducted on October 29, 2008 and October 21, 2010.

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 2 722 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$2,000
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	

Two single events are recommended.

Good Faith Efforts to Comply

25.0% Reduction \$500

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

Notes The Respondent came into compliance on November 15, 2010, prior to the NOE dated December 9, 2010.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$10 Violation Final Penalty Total \$1,642

This violation Final Assessed Penalty (adjusted for limits) \$1,642

Economic Benefit Worksheet

Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Req. Ent. Reference No. RN101874600
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)	\$100	8-Nov-2008	15-Nov-2010	2.02	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to submit the test results to the appropriate regional office or local air pollution control program. The Date Required is ten days after the first testing 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

\$100

TOTAL

\$10

Screening Date 15-Dec-2010

Docket No. 2010-2032-PST-E

PCW

Respondent SIMONE STORES INC dba Millennium Grocery

Policy Revision 2 (September 2002)

Case ID No. 40859

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 4

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

Violation Description

Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, a dispenser nozzle had a torn nozzle boot.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 7

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 October 21, 2010 investigation date to the October 28, 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 October 28, 2010, prior to the NOE dated December 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$821

This violation Final Assessed Penalty (adjusted for limits) \$821

Economic Benefit Worksheet

Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Req. Ent. Reference No. RN101874600
Media Petroleum Storage Tank
Violation No. 4

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)	\$28	21-Oct-2010	28-Oct-2010	0.02	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to repair the torn nozzle boot. 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

\$28

TOTAL

\$0

Screening Date 15-Dec-2010

Docket No. 2010-2032-PST-E

PCW

Respondent SIMONE STORES INC dba Millennium Grocery

Policy Revision 2 (September 2002)

Case ID No. 40859

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 5

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 and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual compliance testing was not conducted by the due date of October 29, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%
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 1 357 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$2,500

One annual event is recommended for the period preceding the October 21, 2010 investigation.

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 October 21, 2010, prior to the NOE dated December 9, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$536

Violation Final Penalty Total \$2,053

This violation Final Assessed Penalty (adjusted for limits) \$2,053

Economic Benefit Worksheet

Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Req. Ent. Reference No. RN101874600
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				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]	\$490	29-Oct-2009	21-Oct-2010	1.90	\$46	\$490	\$536
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for annual testing of the Stage II equipment as per receipt. The Date Required is the date the testing was due and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$490

TOTAL

\$536

Screening Date 15-Dec-2010

Docket No. 2010-2032-PST-E

PCW

Respondent SIMONE STORES INC dba Millennium Grocery

Policy Revision 2 (September 2002)

Case ID No. 40859

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 6

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

Violation Description Failed to ensure that a legible tag, label, or marking with the underground storage tank ("UST") identification 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			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 27 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 October 21, 2010 investigation.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$250

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent came into compliance on November 16, 2010, prior to the NOE dated December 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$821

This violation Final Assessed Penalty (adjusted for limits) \$821

Economic Benefit Worksheet

Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Req. Ent. Reference No. RN101874600
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
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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)	\$75	21-Oct-2010	16-Nov-2010	0.07	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to label the tank fill ports as per receipt. 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

\$75

TOTAL

\$0

Screening Date 15-Dec-2010

Docket No. 2010-2032-PST-E

PCW

Respondent SIMONE STORES INC dba Millennium Grocery

Policy Revision 2 (September 2002)

Case ID No. 40859

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101874600

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 7

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 spill buckets contained liquid.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> 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	27	Number of violation days	
mark only one with an x	daily			Violation Base Penalty \$1,000
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			

One quarterly event is recommended from the October 21, 2010 investigation date to the November 16, 2010 compliance date.

Good Faith Efforts to Comply

25.0% Reduction \$250

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

Notes

The Respondent came into compliance on November 16, 2010, prior to the NOE dated December 9, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$106

Violation Final Penalty Total \$821

This violation Final Assessed Penalty (adjusted for limits) \$821

Economic Benefit Worksheet

Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Req. Ent. Reference No. RN101874600
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)				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	22-Aug-2010	16-Nov-2010	1.15	\$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 removal of 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 15-Dec-2010 **Docket No.** 2010-2032-PST-E
Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Reg. Ent. Reference No. RN101874600
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Danielle Porras

PCW

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

Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code § 334.7(f)
Violation Description Failed to provide accurate information on the UST registration and self-certification form. Specifically, the UST registration did not reflect the correct UST material and corrosion protection.

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	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

		1	27	Number of violation days
<i>mark only one with an x</i>	daily			Violation Base Penalty \$1,000
	weekly			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event		x	

One single event is recommended based on documentation of the violation during the October 21, 2010 investigation.

Good Faith Efforts to Comply

	25.0%	Reduction	\$250
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary	x		
N/A		(mark with x)	
Notes	The Respondent came into compliance on November 16, 2010, prior to the NOE dated December 9, 2010.		

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 **Violation Final Penalty Total** \$821

This violation Final Assessed Penalty (adjusted for limits) \$821

Economic Benefit Worksheet

Respondent SIMONE STORES INC dba Millennium Grocery
Case ID No. 40859
Req. Ent. Reference No. RN101874600
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	21-Oct-2010	16-Nov-2010	0.07	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. 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

\$100

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN603386152 SIMONE STORES INC Classification:Average Rating:1.50
Regulated Entity: RN101874600 Millennium Grocery Classification:High Site Rating:0.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATIOI REGISTRATION 15934
Location: 770 S PINE ST, KOUNTZE, TX, 77625
TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared:

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 14, 2005 to December 14, 2010

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

Name: Danielle Porras Phone: (713) 767-3682

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? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/15/2005 (419187)
2 12/09/2010 (871877)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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
SIMONE STORES INC D/B/A
MILLENIUM GROCERY;
RN101874600**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-2032-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 SIMONE STORES INC d/b/a Millennium Grocery ("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 appear before the Commission and together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 770 South Pine Street in Kountze, Hardin 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 eight thousand six hundred twenty-two dollars (\$8,622.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid two hundred fifty-seven dollars (\$257.00) of the administrative penalty. The remaining amount of eight thousand three hundred sixty-five dollars (\$8,365.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred thirty-nine dollars (\$239.00) 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. Submitted compliance documentation to the Beaumont Regional Office on November 15, 2010, certifying that monthly inspections of the Stage II vapor recovery system are being conducted (Allegation 1.a.);
 - b. Submitted compliance documentation to the Beaumont Regional Office on November 15, 2010, certifying that the correct California Air Resources Board ("CARB") Executive Order is being maintained at the Station (Allegation 1.b.);
 - c. Submitted the required Stage II test results to the Beaumont Regional Office on November 15, 2010 (Allegation 1.c.);
 - d. Replaced the torn dispenser nozzle boot on October 28, 2010 (Allegation 1.d.);
 - e. Conducted the annual Stage II tests, with passing results, on October 21, 2010 (Allegation 1.e.);
 - f. Submitted compliance documentation to the Beaumont Regional Office on November 16, 2010, certifying that the USTs have been properly labeled (Allegation 1.f.);
 - g. Submitted compliance documentation to the Beaumont Regional Office on November 16, 2010, certifying that the bimonthly inspections of the overspill equipment are being conducted and the liquid has been removed from the spill buckets (Allegation 1.g.); and
 - h. Submitted compliance documentation to the Beaumont Regional Office on November 16, 2010, certifying that the UST registration was amended to update the correct UST material and corrosion protection (Allegation 1.h.).
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 October 21, 2010, a TCEQ Beaumont Regional Office investigator documented that Respondent:
- a. Failed to conduct monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(3) and TEX. HEALTH & SAFETY CODE § 382.085(b).
 - b. Failed to maintain Stage II records at the Station, in violation of 30 TEX. ADMIN. CODE § 115.246(1) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, Respondent did not maintain a copy of the CARB Executive Order.
 - c. Failed to submit the Stage II vapor recovery system test results to the appropriate regional office or the local air pollution control program with jurisdiction within 10 working days of the completion of the tests, in violation of 30 TEX. ADMIN. CODE § 115.245(6) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, Respondent did not submit the test results for the tests conducted on October 29, 2008, and October 21, 2010.
 - d. Failed to maintain the Stage II vapor recovery system in proper operating condition, in violation of 30 TEX. ADMIN. CODE § 115.242(3)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, a dispenser nozzle had a torn nozzle boot.
 - e. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Stage II annual compliance testing was not conducted by the due date of October 29, 2009.
 - f. Failed to ensure that a legible tag, label, or marking with the UST identification 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, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).
 - g. 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). Specifically, the spill buckets contained liquid.
 - h. Failed to provide accurate information on the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.7(f). Specifically, the UST registration did not reflect the correct UST material and corrosion protection.

2. Respondent received notice of the violations on or about December 14, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SIMONE STORES INC d/b/a Millennium Grocery, Docket No. 2010-2032-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. All relief not expressly granted in this Agreed Order is denied.
3. 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.
4. 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. 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.
7. 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

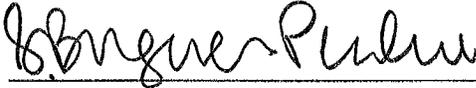
copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute 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.

8. 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

2/24/2012

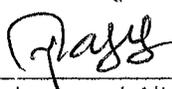
Date

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 SIMONE STORES INC d/b/a Millennium Grocery, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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



Signature – Mohammed Ali Tejani, President
SIMONE STORES INC

1/07/11

Date