EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43151
SRK GROUPS INC dba Cool Stop 1
RN102382058
Docket No. 2011-2313-PST-E

Order Type:
Default Shutdown Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
5840 College Street, Beaumont, Jefferson 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: August 17, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: $17,908

Total Paid to General Revenue: $0

Total Due to General Revenue: $17,908

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

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1);
September 2011 (PCW 2)

Investigation Information

Complaint Date(s): October 7, 2011
Complaint Information: Alleged that the Station did not have a Delivery Certificate.

Date(s) of Investigation: October 18, 2011

Date(s) of NOV(s): December 8, 2011

Date(s) of NOE(s): December 3, 2011

Violation Information

1. 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)].
2. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(1) and (2)].
3. Failed to equip each separate pressurized line with an automatic line leak detector [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)].
4. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii)].
5. Failed to equip tank manways and dispenser sumps of a secondarily contained UST system with liquid sensing probes [30 TEX. ADMIN. CODE § 334.45(d)(1)(E)(vi)].
6. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1), (3), and (4)].
7. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(9)].
8. Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].
9. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately shut down operations of all USTs at the Station:
   a. Cease dispensing fuel from the USTs;
   b. Cease receiving deliveries of regulated substances into the USTs;
   c. Padlock the dispensers;
   d. Empty the USTs of all regulated substances; and
   e. Temporarily remove the USTs from service.

2. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and corrosion protection violations have been corrected.
3. The Station's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, Respondent shall surrender the Station's UST fuel delivery certificate.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming sales of gasoline:
   a. Begin maintaining all Stage II records at the Station;
   b. Install automatic line leak detectors on all pressurized lines and test them, and begin to conduct reconciliation of detailed inventory control records at least once each month;
   c. Ensure that all shear valves are securely anchored at the base of each dispenser and install liquid sensing probes in all tank manways and dispenser sumps;
   d. Conduct the annual and triennial testing of the Stage II equipment;
   e. Post operating instructions on the front of each gasoline dispensing pump;
   f. Obtain a new fuel delivery certificate.
8. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: June 13, 2012

Date Green Card(s) Signed: June 15, 2012

Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Rudy Calderon, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Amy Swanholm, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Mike Pace, Enforcement Division, (817) 588-5933

TCEQ Regional Contact: Sarah Kirksey, Beaumont Regional Office, (409) 898-3838

Respondent: Hussain Jasani, President, SRK GROUPS, Inc., 5480 College St., Beaumont, Texas 77707

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

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

DATES					
Assigned	13-Dec-2011				
PCW	16-Apr-2012	Screening	14-Dec-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	SRK GROUPS INC dba Cool Stop 1		
Reg. Ent. Ref. No.	RN102382058		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43151	No. of Violations	2
Docket No.	2011-2313-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mike Pace
		EC's Team	Enforcement Team 6

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $3,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 2.0% Enhancement *Subtotals 2, 3, & 7* $70

Notes: Enhancement for one NOV with dissimilar violations.

Culpability No 0.0% Enhancement *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts $572
Approx. Cost of Compliance $600

*Capped at the Total EB $ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* $3,570

OTHER FACTORS AS JUSTICE MAY REQUIRE 15.9% *Adjustment* $568

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

Final Penalty Amount $4,138

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $4,138

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 $4,138

Screening Date	14-Dec-2011	**Docket No.**	2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1			*Policy Revision 2 (September 2002)*
Case ID No.	43151			*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102382058			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Mike Pace			

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
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) 2%

>> 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 dissimilar violations.

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

Screening Date	14-Dec-2011	**Docket No.** 2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1		*Policy Revision 2 (September 2002)*
Case ID No.	43151		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

Violation Number 1

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 underground storage tank ("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 June 30, 2011.

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 | 167 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $1,000

One annual event is 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 $1,000

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $1,182

This violation Final Assessed Penalty (adjusted for limits) $1,182

Economic Benefit Worksheet

Respondent SRK GROUPS INC dba Cool Stop 1
Case ID No. 43151
Reg. Ent. Reference No. RN102382058
Media Petroleum Storage Tank
Violation No. 1

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	$100	30-Jun-2011	1-May-2012	0.84	$4	n/a	$4
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to accurately prepare and submit a UST registration and obtain a current TCEQ delivery certificate. The date required is the expiration date of the delivery certificate and the final date is the estimated compliance date.

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 $4

Screening Date	14-Dec-2011	**Docket No.** 2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1		*Policy Revision 2 (September 2002)*
Case ID No.	43151		*PCW Revision October 30, 2008*
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.245(1) and (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 vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Respondent replaced the dispensers and Stage II equipment, and reopened December 2009. However, the Stage II equipment had not been tested by the due date of January 1, 2010.

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

655 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended for the period preceding the October 18, 2011 investigation.

Good Faith Efforts to Comply

0.0% Reduction — $0

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

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

Violation Subtotal $2,500

Economic Benefit (EB) for this violation

Estimated EB Amount $568

Statutory Limit Test

Violation Final Penalty Total $2,956

This violation Final Assessed Penalty (adjusted for limits) $2,956

Economic Benefit Worksheet

Respondent SRK GROUPS INC dba Cool Stop 1
Case ID No. 43151
Reg. Ent. Reference No. RN102382058
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							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]	$500	1-Jan-2010	18-Oct-2011	2.71	$68	$500	$568
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs	Estimated avoided cost to conduct the required testing to verify proper operation of the Stage II equipment. The date required is the test due date and the final date is the investigation date.						

Approx. Cost of Compliance $500

TOTAL $568

Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011) *PCW Revision August 3, 2011*

TCEQ

DATES					
Assigned	13-Dec-2011				
PCW	16-Apr-2012	Screening	14-Dec-2011	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	SRK GROUPS INC dba Cool Stop 1		
Reg. Ent. Ref. No.	RN102382058		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	43151	No. of Violations	6
Docket No.	2011-2313-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Mike Pace
		EC's Team	Enforcement Team 6
Admin. Penalty $ Limit Minimum	$0	Maximum	$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* **$13,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **2.0%** Enhancement *Subtotals 2, 3, & 7* **$270**

Notes: Enhancement for one NOV with dissimilar violations.

Culpability No **0.0%** Enhancement *Subtotal 4* **$0**

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts $91
Approx. Cost of Compliance $2,300

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$13,770**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** *Adjustment*

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$13,770**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$13,770**

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 **$13,770**

Screening Date	14-Dec-2011	**Docket No.**	2011-2313-PST-E
Respondent	SRK GROUPS INC dba Cool Stop 1		
Case ID No.	43151		
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	1	2%
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) 2%

>> 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 dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage ****capped at 100%*** 2%

Screening Date	14-Dec-2011	**Docket No.** 2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1		*Policy Revision 3 (September 2011)*
Case ID No.	43151		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

Violation Number 1

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

Violation Description Failed to equip each separate pressurized line with an automatic line leak detector. Specifically, the underground storage tank ("UST") piping was not equipped with line leak detectors. Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 $21,250

$3,750

Violation Events

Number of Violation Events: 1 | 57 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One quarterly event is recommended based on documentation of the violation during the October 18, 2011 investigation to the December 14, 2011 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 $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $33

Statutory Limit Test

Violation Final Penalty Total $3,825

This violation Final Assessed Penalty (adjusted for limits) $3,825

Economic Benefit Worksheet

Respondent SRK GROUPS INC dba Cool Stop 1
Case ID No. 43151
Reg. Ent. Reference No. RN102382058
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	$350	18-Oct-2011	14-Jun-2012	0.66	$1	$15	$16
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$500	18-Oct-2011	14-Jun-2012	0.66	$16	n/a	$16

Notes for DELAYED costs: Estimated cost to install an automatic line leak detector ($350) and test the system and begin to conduct reconciliation of inventory control records ($500). The date required is the investigation date and the final date is the estimated compliance date.

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 $850

TOTAL $33

Screening Date	14-Dec-2011	**Docket No.** 2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1		*Policy Revision 3 (September 2011)*
Case ID No.	43151		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.45(d)(1)(E)(vi)

Violation Description Failed to equip tank manways and dispenser sumps of a secondarily contained UST system with liquid sensing probes. Specifically, the sump for dispenser no. 3 did not have a liquid sensing probe installed.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes: Human health or the environment 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 $21,250

$3,750

Violation Events

Number of Violation Events: 1 — 57 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $3,750

One quarterly event is recommended based on documentation of the violation during the October 18, 2011 investigation to the December 14, 2011 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 $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $16

Statutory Limit Test

Violation Final Penalty Total $3,825

This violation Final Assessed Penalty (adjusted for limits) $3,825

Economic Benefit Worksheet

Respondent SRK GROUPS INC dba Cool Stop 1
Case ID No. 43151
Reg. Ent. Reference No. RN102382058
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	$350	18-Oct-2011	14-Jun-2012	0.66	$1	$15	$16
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to install a liquid sensing probe. The date required is the investigation date and the final date is the estimated compliance date.						
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 $350

TOTAL $16

Screening Date	14-Dec-2011	**Docket No.** 2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1		*Policy Revision 3 (September 2011)*
Case ID No.	43151		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.246(1), (3), and (4) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, a copy of the correct California Air Resources Board Executive Order, Stage II maintenance records, and employee training records were not available for review.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 1 — 57 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,250

One single event is 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 $1,250

Economic Benefit (EB) for this violation

Estimated EB Amount $16

Statutory Limit Test

Violation Final Penalty Total $1,275

This violation Final Assessed Penalty (adjusted for limits) $1,275

Economic Benefit Worksheet

Respondent SRK GROUPS INC dba Cool Stop 1
Case ID No. 43151
Reg. Ent. Reference No. RN102382058
Media Petroleum Storage Tank
Violation No. 3

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	18-Oct-2011	14-Jun-2012	0.66	$16	n/a	$16
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to maintain Stage II records at the Station. The date required is the investigation date and the final date is the estimated compliance date.						
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 $16

Screening Date	14-Dec-2011	**Docket No.** 2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1		*Policy Revision 3 (September 2011)*
Case ID No.	43151		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

Violation Number 4

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 $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 $23,750

$1,250

Violation Events

1 — 57 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,250

One quarterly event is recommended based on documentation of the violation during the October 18, 2011 investigation to the December 14, 2011 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 $1,250

Economic Benefit (EB) for this violation

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $1,275

This violation Final Assessed Penalty (adjusted for limits) $1,275

Economic Benefit Worksheet

Respondent SRK GROUPS INC dba Cool Stop 1
Case ID No. 43151
Reg. Ent. Reference No. RN102382058
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				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	18-Oct-2011	14-Jun-2012	0.66	$3	n/a	$3
Notes for DELAYED costs	The estimated cost to post operating instructions on each dispenser. The date required is the investigation date and the final date is the estimated compliance date.						
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 $3

Screening Date	14-Dec-2011	**Docket No.** 2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1		*Policy Revision 3 (September 2011)*
Case ID No.	43151		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.45(c)(3)(A)

Violation Description Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves on dispenser nos. 1 and 5 were not anchored.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 1 — 57 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,250

One quarterly event is recommended based on documentation of the violation during the October 18, 2011 investigation to the December 14, 2011 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 $1,250

Economic Benefit (EB) for this violation

Estimated EB Amount $23

Statutory Limit Test

Violation Final Penalty Total $1,275

This violation Final Assessed Penalty (adjusted for limits) $1,275

Economic Benefit Worksheet

Respondent SRK GROUPS INC dba Cool Stop 1
Case ID No. 43151
Reg. Ent. Reference No. RN102382058
Media Petroleum Storage Tank
Violation No. 5

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	$500	18-Oct-2011	14-Jun-2012	0.66	$1	$22	$23
Buildings				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to securely anchor the emergency shutoff valves at the base of the dispensing units. The date required is the investigation date and the final date is the estimated compliance date.

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 $23

Screening Date	14-Dec-2011	**Docket No.** 2011-2313-PST-E	**PCW**
Respondent	SRK GROUPS INC dba Cool Stop 1		*Policy Revision 3 (September 2011)*
Case ID No.	43151		*PCW Revision August 3, 2011*
Reg. Ent. Reference No.	RN102382058		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Mike Pace		

Violation Number 6

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, the Respondent accepted three fuel deliveries on September 28 and 30, and October 11, 2011 without a delivery certificate.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 $24,250

$750

Violation Events

Number of Violation Events: 3 | 3 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,250

Three single events (one event per delivery) 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 $2,250

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $2,295

This violation Final Assessed Penalty (adjusted for limits) $2,295

Economic Benefit Worksheet

Respondent SRK GROUPS INC dba Cool Stop 1
Case ID No. 43151
Reg. Ent. Reference No. RN102382058
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	Economic benefit included in violation no. 1 of Policy Revision 2 PCW.						
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

Compliance History

Customer/Respondent/Owner-Operator:	CN603561283	SRK GROUPS INC	Classification: AVERAGE	Rating: 6.50
Regulated Entity:	RN102382058	Cool Stop 1	Classification: AVERAGE	Site Rating: 4.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	40089

Location: 5480 COLLEGE ST, BEAUMONT, TX, 77707
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: December 14, 2011
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 14, 2006 to December 14, 2011
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Mike Pace Phone: (512) 944-9929

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? SRK GROUPS INC
   5 Star Innovations INC
4. If Yes, who was/were the prior owner(s)/operator(s)? Tajammal Incorporated
   Prince Texas Group, Inc.
5. When did the change(s) in owner or operator occur? 08/01/2007
   07/07/2008
6. Rating Date: 9/1/2011 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 07/16/2008 (685299)
   2 01/07/2009 (722335)

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

Date: 07/15/2008 (685299) CN603561283

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
Description: Failure to provide amended registration and notification to the agency for any change or additional information regarding Underground Storage Tanks (USTs) within 30 days from the date of the occurrence of the change or addition.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.50(a)
30 TAC Chapter 334, SubChapter C 334.54(c)(2)
30 TAC Chapter 334, SubChapter C 334.54(d)(2)
Description: Failure to monitor for releases an out-of-service underground storage tank (UST) system for which regulated substances have not been removed.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)(2)
Description: Failure to secure an underground storage tank (UST) against tampering, vandalism, or unauthorized access.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(C)
Description: Failure to provide new self-certification to the 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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
SRK GROUPS INC DBA	**§**	
COOL STOP 1;	**§**	**ENVIRONMENTAL QUALITY**
RN102382058	**§**	

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2011-2313-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the station's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shutdown and remove from service the underground storage tanks ("USTs") located at 5840 College Street in Beaumont, Jefferson County, Texas. The respondent made the subject of this Order is SRK GROUPS INC dba Cool Stop 1 ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2(70), a UST system and a convenience store with retail sales of gasoline located at 5840 College Street in Beaumont, Jefferson 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. During an investigation conducted on October 18, 2011, a TCEQ Beaumont Regional Office investigator documented that Respondent:

   a. 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 June 30, 2011;

   b. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, Respondent replaced the dispensers and Stage II equipment, and reopened in December 2009. However, the Stage II equipment had not been tested by the due date of January 1, 2010;

c. Failed to equip each separate pressurized line with an automatic line leak detector. Specifically, the UST system piping was not equipped with line leak detectors;

d. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons;

e. Failed to equip tank manways and dispenser sumps of a secondarily contained UST system with liquid sensing probes. Specifically, the sump for dispenser no. 3 did not have a liquid sensing probe installed;

f. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, a copy of the correct California Air Resources Board Executive Order, Stage II maintenance records, and employee training records were not available for review;

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

h. Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves on dispenser nos. 1 and 5 were not anchored; and

i. 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, Respondent accepted three fuel deliveries on September 28 and 30, 2011, and October 11, 2011, without a delivery certificate.

3. By letter dated December 8, 2011, the TCEQ Beaumont Regional Office provided Respondent with notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations are not corrected.

4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SRK GROUPS INC dba Cool Stop 1" (the "EDPRP") in the TCEQ Chief Clerk's office on June 13, 2012.

5. By letter dated June 13, 2012, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on June 15, 2012, as evidenced by the signature on the card.

6. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

7. By letter dated July 23, 2012, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Station to be shut down and removed from service if Respondent failed to correct the release detection violations within 30 days after Respondent's receipt of the notice.

8. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection violations alleged in Findings of Fact Nos. 2.c. and 2.d. have been corrected.

9. The USTs at the Station do not have release detection as required by TEX. WATER CODE § 26.3475 and 30 TEX. ADMIN. CODE § 334.50 and may be releasing petroleum products to the environment. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 2.a., Respondent 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, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii).

3. As evidenced by Finding of Fact No. 2.b., Respondent failed to verify proper operation of the Stage II equipment at least once every 12 months and the 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 TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(1) and (2).

4. As evidenced by Finding of Fact No. 2.c., Respondent failed to equip each separate pressurized line with an automatic line leak detector, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i).

5. As evidenced by Finding of Fact No. 2.d., Respondent failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii).

6. As evidenced by Finding of Fact No. 2.e., Respondent failed to equip tank manways and dispenser sumps of a secondarily contained UST system with liquid sensing probes, in violation of30 TEX. ADMIN. CODE § 334.45(d)(1)(E)(vi).

7. As evidenced by Finding of Fact No. 2.f., Respondent failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(1), (3), and (4).

8. As evidenced by Finding of Fact No. 2.g., Respondent 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 TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(9).

9. As evidenced by Finding of Fact No. 2.h., Respondent failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A).

10. As evidenced by Finding of Fact No. 2.i., Respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).

11. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

12. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

14. An administrative penalty in the amount of seventeen thousand nine hundred eight dollars ($17,908.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

15. As evidenced by Findings of Fact Nos. 2, 3, 7, and 8, Respondent failed to correct documented violations of Commission release detection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Station.

16. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill protection for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.

17. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

18. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Station's UST fuel delivery certificate if the Commission finds that good cause exists.

19. Good cause for revocation of the Station's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6 and Conclusions of Law Nos. 2 through 12.

20. As evidenced by Findings of Fact Nos. 8 and 9, current conditions at the Station constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Station:

   a. Cease dispensing fuel from the USTs;

   b. Cease receiving deliveries of regulated substances into the USTs (Conclusion of Law No. 10);

   c. Padlock the dispensers;

   d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and

   e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.

2. The USTs at the Station shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provisions Nos. 1.a. through 1.e., until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection violations noted in Conclusions of Law Nos. 4 and 5 have been corrected.

3. If Respondent elects to permanently remove from service any portion of the UST system at the Station, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

   Petroleum Storage Tank Registration Team, MC 138
   Texas Commission on Environmental Quality
   P.O. Box 13087
   Austin, Texas 78711-3087

4. The Station's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order.

5. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.

6. Within 10 days after the effective date of this Order, Respondent shall send the Station's UST fuel delivery certificate to:

   Petroleum Storage Tank Registration Team, MC 138
   Texas Commission on Environmental Quality
   P.O. Box 13087
   Austin, Texas 78711-3087

7. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 5 and 6.

8. Respondent is assessed an administrative penalty in the amount of seventeen thousand nine hundred eight dollars ($17,908.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.

9. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: SRK GROUPS INC dba Cool Stop 1; Docket No. 2011-2313-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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:

    a. Begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246 (Conclusion of Law No. 7);

    b. Install automatic line leak detectors on all pressurized lines and test them, and begin to conduct reconciliation of detailed inventory control records at least once each month, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusions of Law Nos. 4 and 5);

    c. Ensure that all shear valves are securely anchored at the base of each dispenser and install liquid sensing probes in all tank manways and dispenser sumps, in accordance with 30 TEX. ADMIN. CODE § 334.45 (Conclusions of Law Nos. 6 and 9);

    d. Conduct the annual and triennial testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245 (Conclusion of Law No. 3);

    e. Post operating instructions on the front of each gasoline dispensing pump, in accordance with 30 TEX. ADMIN. CODE § 115.242 (Conclusion of Law No. 8); and

    f. Obtain a new fuel delivery certificate from the TCEQ (Conclusion of Law No. 2 and 10).

11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).

12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.

13. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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 fine and imprisonment for knowing violations."

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Sarah Kirksey, Waste Section Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

14. All relief not expressly granted in this Order is denied.

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

16. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.

17. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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.

18. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.

19. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

20. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date this Order was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

AFFIDAVIT OF RUDY CALDERON

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

"My name is Rudy Calderon. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of SRK GROUPS INC dba Cool Stop 1" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on June 13, 2012.

The EDPRP was mailed to Respondent's last known address on June 13, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on June 15, 2012, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

By letter dated July 31, 2012, sent via first class mail and certified mail, return receipt requested article no. 7004 1350 0002 7549 3310, I provided Respondent with notice of the TCEQ's intent to order the USTs at the Station be shut down and removed from service if the violations pertaining to release detection were not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent received the notice on August 2, 2012.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the shutdown violations noted during the October 18, 2011, investigation."

Rudy Calderon, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rudy Calderon, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 14th day of August, A.D. 2012.

Notary Signature

MARGARET T JACKSON
NOTARY PUBLIC
State of Texas
Comm. Exp. 12-21-2013