

**Executive Summary – Enforcement Matter – Case No. 44545**  
**Shahab, Inc. dba Cowboys 11**  
**RN102354206**  
**Docket No. 2012-1402-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Cowboys 11, 511 West Pearl Street, Granbury, Hood County

**Type of Operation:**

Convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** November 30, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$9,247

**Amount Deferred for Expedited Settlement:** \$1,849

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$398

**Total Due to General Revenue:** \$7,000

Payment Plan: 35 payments of \$200 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 44545  
Shahab, Inc. dba Cowboys 11  
RN102354206  
Docket No. 2012-1402-PST-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** December 15, 2011  
**Date(s) of NOE(s):** June 27, 2012

***Violation Information***

Failed to monitor the underground storage tanks for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent sold the Facility on May 1, 2012.

**Technical Requirements:**

N/A

***Litigation Information***

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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Rebecca Boyett, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2503; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Shahabuddin Jindani, President, Shahab, Inc., 4050 Haltom Road, Haltom City, Texas 76117  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

**DATES**

Assigned PCW

2-Jul-2012  
19-Jul-2012

Screening

5-Jul-2012

EPA Due

**RESPONDENT/FACILITY INFORMATION**

Respondent Shahab, Inc. dba Cowboys 11

Reg. Ent. Ref. No. RN102354206

Facility/Site Region 4-Dallas/Fort Worth

Major/Minor Source Minor

**CASE INFORMATION**

Enf./Case ID No. 44545

Docket No. 2012-1402-PST-E

Media Program(s) Petroleum Storage Tank

Multi-Media

No. of Violations 1

Order Type 1660

Government/Non-Profit No

Enf. Coordinator Rebecca Boyett

EC's Team Enforcement Team 7

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

**Subtotal 1** \$7,500

**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**

\$150

Notes

Enhancement for one notice of violation 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 \$1,597

Approx. Cost of Compliance \$1,500

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7**

**Final Subtotal**

\$7,650

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

20.9%

**Adjustment**

\$1,597

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Recommended enhancement to capture the avoided cost of compliance associated with the violation.

**Final Penalty Amount**

\$9,247

**STATUTORY LIMIT ADJUSTMENT**

**Final Assessed Penalty**

\$9,247

**DEFERRAL**

20.0%

Reduction

**Adjustment**

-\$1,849

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

Notes

Deferral offered for expedited settlement.

**PAYABLE PENALTY**

\$7,398

Screening Date 5-Jul-2012

Docket No. 2012-1402-PST-E

PCW

Respondent Shahab, Inc. dba Cowboys 11

Policy Revision 3 (September 2011)

Case ID No. 44545

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102354206

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

### 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	1	2%
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%

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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one notice of violation with dissimilar violations.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100%

**Screening Date** 5-Jul-2012  
**Respondent** Shahab, Inc. dba Cowboys 11  
**Case ID No.** 44545

**Docket No.** 2012-1402-PST-E

**PCW**

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

**Reg. Ent. Reference No.** RN102354206  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Rebecca Boyett  
**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

**Violation Description** Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					15.0%
Potential	x				

**>>> 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: 2      138 Number of violation days

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

**Violation Base Penalty** \$7,500

Two quarterly events are recommended from the December 15, 2011 investigation date to the May 1, 2012 change of ownership 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** \$7,500

**Economic Benefit (EB) for this violation**

**Estimated EB Amount** \$1,597

**Statutory Limit Test**

**Violation Final Penalty Total** \$9,247

**This violation Final Assessed Penalty (adjusted for limits)** \$9,247

# Economic Benefit Worksheet

**Respondent** Shahab, Inc. dba Cowboys 11  
**Case ID No.** 44545  
**Reg. Ent. Reference No.** RN102354206  
**Media** Petroleum Storage Tank  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

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

**Delayed Costs**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)**

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$1,500	15-Dec-2011	1-May-2012	1.30	\$97	\$1,500	\$1,597

Notes for AVOIDED costs

Estimated cost to implement a method of release detection for the USTs at the Facility. The Date Required is the investigation date and the Final Date is the date the Facility changed ownership.

Approx. Cost of Compliance \$1,500

**TOTAL** \$1,597

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN603569849    Shahab Inc	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN102354206    COWBOYS 11	Classification: AVERAGE	Site Rating: 4.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	27451
Location:	511 W PEARL ST, GRANBURY, TX, 76048		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	August 08, 2012		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 05, 2007 to July 05, 2012		

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

Name: Rebecca Boyett Phone: (512) 239-2503

### 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? RNAL INC., OWNER OPERATOR since 05/01/2012
4. If **YES**, who was/were the prior owner(s)/operator(s)? SAEED, MANSOOR, OWNER OPERATOR, 1/1/2006 to 8/1/2010  
Shahab Inc, OWNER OPERATOR, 8/1/2010 to 5/1/2012
5. If **YES**, when did the change(s) in owner or operator occur? 5/1/2012
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	08/17/2009	(764369)	
2	06/27/2012	(995276)	
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	02/19/2009	(722489)	CN604093609
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.49(c)(2)(C)		
Description:	Failure to inspect an impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)		
Description:	Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)		
Description:	Failure to ensure that all underground storage tanks (USTs) are properly identified as listed on the facility's Underground Storage Tank Registration & Self-Certification Form by a legible tag, label, or marking that is permanently		

applied on or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN** § **BEFORE THE**  
**ENFORCEMENT ACTION** §  
**CONCERNING** § **TEXAS COMMISSION ON**  
**SHAHAB, INC. DBA COWBOYS 11** §  
**RN102354206** § **ENVIRONMENTAL QUALITY**

**AGREED ORDER**  
**DOCKET NO. 2012-1402-PST-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Shahab, Inc. dba Cowboys 11 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owned and operated a convenience store with retail sales of gasoline at 511 West Pearl Street in Granbury, Hood County, Texas (the "Facility").
2. The Respondent's three underground storage tanks ("USTs") were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 2, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Nine Thousand Two Hundred Forty-Seven Dollars (\$9,247) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Ninety-Eight Dollars (\$398) of the administrative penalty and One Thousand Eight Hundred Forty-

Nine Dollars (\$1,849) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Seven Thousand Dollars (\$7,000) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Dollars (\$200) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent sold the Facility on May 1, 2012.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

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

1. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on December 15, 2011.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Shahab, Inc. dba Cowboys 11, Docket No. 2012-1402-PST-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be

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

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Pam Mani  
For the Executive Director

2/19/13  
Date

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

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

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

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

Shahabuddin  
Signature

10.11.2012  
Date

SHAHABUDDIN JINDANI  
Name (Printed or typed)  
Authorized Representative of  
Shahab, Inc. dba Cowboys 11

PRESIDENT  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.