

**Executive Summary – Enforcement Matter – Case No. 44925
SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206
RN101499267
Docket No. 2012-1793-PST-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

Speedy Stop 206, 6422 Highway 183 South, Austin, Travis 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: April 26, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$43,879

Amount Deferred for Expedited Settlement: \$8,775

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$35,104

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 22, 2011

Date(s) of NOE(s): January 26, 2012

**Executive Summary – Enforcement Matter – Case No. 44925
SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206
RN101499267
Docket No. 2012-1793-PST-E**

Violation Information

1. Failed to ensure that all release detection equipment installed as part of a underground storage tank ("UST") system is maintained in good operating condition. Specifically, the tank monitor was not calibrated yearly and the probes were not inspected when inaccuracies appeared in inventory control records [30 TEX. ADMIN. CODE § 334.48(e)].
2. Failed to provide release detection for the piping associated with the UST system. Specifically, the annual piping tightness test was not conducted [30 TEX. ADMIN. CODE § 334.50(b) and TEX. WATER CODE § 26.3475(a)].
3. Failed to ensure that any metal component of a UST system which is protected from corrosion by one of the electrical isolation methods remains electrically isolated by periodically inspecting and testing the metal component. Specifically, a TCEQ investigator observed the tank 4B sump full of water and corrosion on the metal components [30 TEX. ADMIN. CODE § 334.49(d)(1)(A) and TEX. WATER CODE § 26.3475(d)].
4. Failed to prevent an unauthorized discharge of petroleum fuel into or adjacent to any water of the state. Specifically, the drainage ditch contained black colored water with a thick oily substance at the surface, a strong gasoline odor in the storm sewer and inlet box [30 TEX. ADMIN. CODE § 334.48(a) and TEX. WATER CODE § 26.121].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent calibrated the tank monitor and inspected the probes on August 3, 2011.

Technical Requirements:

The Order will require Respondent to:

- a. Immediately, cease all unauthorized discharges of regulated substances including, but not limited to, petroleum fuel.
- b. Within 30 days:
 - i. Complete a Site Investigation and submit a report which summarizes the findings of the Site Investigation to the Executive Director ("ED") for review and approval. The Site Investigation Report shall include a proposal for corrective action. Upon review, possible modifications, and approval by the ED, implement the proposal in accordance with the approved implementation schedule.

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ii. If, after receipt of the Site Investigation Report, the ED determines that additional investigation is necessary, implement such investigation and report the results.

iii. If the ED determines that additional information or additional actions are required to ensure that adequate remediation of all contaminated areas has been completed, submit the additional information to the ED, and perform the additional actions within the time-frame specified in the request corrective action procedures to properly contain storm water that comes in contact with regulated substances deriving from the USTs at the Facility to ensure that the storm water is immediately and properly collected and disposed of in an authorized manner;

iv. Drain all water from the sumps and implement procedures to inspect and test the metal components of the UST system to ensure that they are electrically isolated and protected from corrosion; and

v. Conduct the annual piping tightness test.

c. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a. and b.

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: Andrea Park, Enforcement Division,
Enforcement Team 6, MC R-12, (713) 422-8970; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Carlton LaBeff, Authorized Agent, SPEEDY STOP FOOD STORES, LLC,
P.O. Box 1876, Victoria, Texas 77902
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	28-Nov-2011	Screening	28-Nov-2011	EPA Due	
	PCW	28-Nov-2011				

RESPONDENT/FACILITY INFORMATION			
Respondent	SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206		
Reg. Ent. Ref. No.	RN101499267		
Facility/Site Region	11-Austin	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	44925	No. of Violations	4
Docket No.	2012-1793-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media	Water Quality	Enf. Coordinator	Andrea Park
		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** **\$45,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

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** **\$1,250**

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

Total EB Amounts	\$325
Approx. Cost of Compliance	\$3,735

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$43,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.3% **Adjustment** **\$129**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 3.

Final Penalty Amount **\$43,879**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$43,879**

DEFERRAL 20.0% Reduction **Adjustment** **-\$8,775**

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 **\$35,104**

Screening Date 28-Nov-2011

Docket No. 2012-1793-PST-E

PCW

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206

Policy Revision 2 (September 2002)

Case ID No. 44925

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101499267

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date 28-Nov-2011

Docket No. 2012-1793-PST-E

PCW

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206

Policy Revision 2 (September 2002)

Case ID No. 44925

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101499267

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.48(e)

Violation Description Failed to ensure that all release detection equipment installed as part of a underground storage tank ("UST") system is maintained in good operating condition. Specifically, the tank monitor was not calibrated yearly and the probes were not inspected when inaccuracies appeared in inventory control records.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (50%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0%). Includes 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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 12

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

Violation Base Penalty \$5,000

One quarterly event is recommended based on documentation of the violation during the July 22, 2011 investigation to the August 3, 2011 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes: The Respondent came into compliance on August 3, 2011, prior to the Notice of Enforcement ("NOE") dated January 26, 2012.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$3,761

This violation Final Assessed Penalty (adjusted for limits) \$3,761

Economic Benefit Worksheet

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206

Case ID No. 44925

Reg. Ent. Reference No. RN101499267

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
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$850	22-Jul-2011	3-Aug-2011	0.03	\$0	\$2	\$2
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

Actual cost to calibrate the tank monitor and inspect probes. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$850

TOTAL

\$2

Screening Date 28-Nov-2011

Docket No. 2012-1793-PST-E

PCW

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206

Policy Revision 2 (September 2002)

Case ID No. 44925

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101499267

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b) and Tex. Water Code § 26.3475(a)

Violation Description Failed to provide release detection for the piping associated with the UST system. Specifically, the annual piping tightness test was not conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Harm		
	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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1 365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$5,000

One annual event is recommended for the 12-month period preceding the July 22, 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 \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$129

Violation Final Penalty Total \$5,015

This violation Final Assessed Penalty (adjusted for limits) \$5,015

Economic Benefit Worksheet

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206

Case ID No. 44925

Reg. Ent. Reference No. RN101499267

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				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]	\$118	22-Jul-2010	22-Jul-2011	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual piping tightness test. The date required is one year prior to the investigation date and the final date is the investigation date.

Approx. Cost of Compliance \$118

TOTAL \$129

Screening Date 28-Nov-2011

Docket No. 2012-1793-PST-E

PCW

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206

Policy Revision 2 (September 2002)

Case ID No. 44925

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101499267

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.49(d)(1)(A) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to ensure that any metal component of a UST system which is protected from corrosion by one of the electrical isolation methods remains electrically isolated by periodically inspecting and testing the metal component. Specifically, a TCEQ investigator observed the tank 4B sump full of water and corrosion on the metal components.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	x			

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 129 Number of violation days

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

Violation Base Penalty \$10,000

Two quarterly events are recommended based on documentation of the violation during the July 22, 2011 investigation to the November 28, 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 \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$10,029

This violation Final Assessed Penalty (adjusted for limits) \$10,029

Economic Benefit Worksheet

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206
Case ID No. 44925
Reg. Ent. Reference No. RN101499267
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	22-Jul-2011	30-Nov-2012	1.36	\$34	n/a	\$34

Notes for DELAYED costs

Estimated cost to remove and properly dispose of water from the sump. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$34

Screening Date 28-Nov-2011

Docket No. 2012-1793-PST-E

PCW

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206

Policy Revision 2 (September 2002)

Case ID No. 44925

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101499267

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Andrea Park

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.48(a) and Tex. Water Code § 26.121

Violation Description

Failed to prevent an unauthorized discharge of petroleum fuel into or adjacent to any water of the state. Specifically, the drainage ditch contained black colored water with a thick oily substance at the surface, a strong gasoline odor in the storm sewer and inlet box.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 50%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

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

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 5

146 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$25,000

Five monthly events are recommended based on documentation of the violation during the July 5, 2011 release discovery date to the November 28, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDRP/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 \$25,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$160

Statutory Limit Test

Violation Final Penalty Total \$25,074

This violation Final Assessed Penalty (adjusted for limits) \$25,074

Economic Benefit Worksheet

Respondent SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206
Case ID No. 44925
Reg. Ent. Reference No. RN101499267
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$2,267	5-Jul-2011	30-Nov-2012	1.41	\$160	n/a	\$160
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to complete and submit the Site Investigation Report and take appropriate corrective measures. The date required is the date the release was discovered 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

\$2,267

TOTAL

\$160

Compliance History Report

Customer/Respondent/Owner-Operator: CN603234246 SPEEDY STOP FOOD STORES, LLC Classification: AVERAGE Rating: 1.65
Regulated Entity: RN101499267 SPEEDY STOP 206 Classification: HIGH Site Rating: 0.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 10994
REGISTRATION

Location: 6422 HWY 183 S, AUSTIN, TX 78744

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: September 05, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 28, 2006 to November 28, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Andrea Park Phone: (713) 422-8970

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If **YES**, who is the current owner/operator? N/A
4. If **YES**, who was/were the prior owner(s)/operator(s)? N/A
5. If **YES**, when did the change(s) in owner or operator occur? N/A
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 09/30/2010 (850648)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
SPEEDY STOP FOOD STORES,
LLC DBA SPEEDY STOP 206
RN101499267**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2012-1793-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 SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206 ("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 owns and operates a convenience store with retail sales of gasoline at 6422 Highway 183 South in Austin, Travis County, Texas (the "Facility").
2. The Respondent's four underground storage tanks ("USTs") are 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 January 31, 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 Forty-Three Thousand Eight Hundred Seventy-Nine Dollars (\$43,879) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirty-Five

Thousand One Hundred Four Dollars (\$35,104) of the administrative penalty and Eight Thousand Seven Hundred Seventy-Five Dollars (\$8,775) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

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 calibrated the tank monitor and inspected the probes on August 3, 2011.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to ensure that all release detection equipment installed as part of a UST system is maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.48(e), as documented during an investigation conducted on July 22, 2011. Specifically, the tank monitor was not calibrated yearly and the probes were not inspected when inaccuracies appeared in inventory control records.
2. Failed to provide release detection for the piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 22, 2011. Specifically, the annual piping tightness test was not conducted.
3. Failed to ensure that any metal component of a UST system which is protected from corrosion by one of the electrical isolation methods remains electrically isolated by periodically inspecting and testing the metal component, in violation of 30 TEX. ADMIN. CODE § 334.49(d)(1)(A) and TEX. WATER CODE § 26.3475(d), as documented during an

investigation conducted on July 22, 2011. Specifically, a TCEQ investigator observed the tank 4B sump full of water and corrosion on the metal components.

4. Failed to prevent an unauthorized discharge of petroleum fuel into or adjacent to any water of the state, in violation of 30 TEX. ADMIN. CODE § 334.48(a) and TEX. WATER CODE § 26.121, as documented during an investigation conducted on July 22, 2011. Specifically, the drainage ditch contained black colored water with a thick oily substance at the surface, a strong gasoline odor in the storm sewer and inlet box.

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: SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206, Docket No. 2012-1793-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease all unauthorized discharges of regulated substances including, but not limited to, petroleum fuel, in accordance with 30 TEX. ADMIN. CODE § 334.48 and TEX. WATER CODE § 26.121.
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Complete a Site Investigation and submit a report which summarizes the findings of the Site Investigation (the "Site Investigation Report") to the Executive Director for review and approval. The Site Investigation Report shall include a proposal for corrective action. The proposal shall be submitted in accordance with 30 TEX. ADMIN. CODE ch. 334, subchs. D and G (relating to Release Reporting and Corrective Action, and Target Concentration Criteria, respectively) or other applicable guidance approved by the Executive Director. Upon review, possible modifications,

and approval by the Executive Director, implement the proposal in accordance with the approved implementation schedule.

If, after receipt of the Site Investigation Report, the Executive Director determines that additional investigation is necessary, implement such investigation and report the results.

If the Executive Director determines that additional information or additional actions are required to ensure that adequate remediation of all contaminated areas has been completed, submit the additional information to the Executive Director, and perform the additional actions within the time-frame specified in the request corrective action procedures to properly contain storm water that comes in contact with regulated substances deriving from the USTs at the Facility to ensure that the storm water is immediately and properly collected and disposed of in an authorized manner, in accordance with 30 TEX. ADMIN. CODE § 334.48 and TEX. WATER CODE § 26.121;

- ii. Drain all water from the sumps and implement procedures to inspect and test the metal components of the UST system to ensure that they are electrically isolated and protected from corrosion, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - iii. Conduct the annual piping tightness test, in accordance with 30 TEX. ADMIN. CODE § 334.50.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by 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.
6. 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.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. 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 Johnson
For the Executive Director

5/9/13
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.

Carlton LaBett
Signature

1/15/13
Date

Carlton LaBett
Name (Printed or typed)
Authorized Representative of
SPEEDY STOP FOOD STORES, LLC dba Speedy Stop 206

Authorized Agent
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.