

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44433  
Asuda Holdings LLC d/b/a 7-Eleven  
RN101532281  
Docket No. 2012-1297-PST-E

**Order Type:**

Agreed Order

**Media:**

PST

**Small Business:**

Yes

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

3976 Rosemeade Parkway, Dallas, Denton 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:** May 10, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$27,100

**Total Paid to General Revenue:** \$780

**Total Due to General Revenue:** \$26,320

Payment Plan: 35 payments of \$752

**Compliance History Classifications:**

Person/CN – Average  
Site/RN – Average

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Investigation Information**

**Date(s) of Investigation:** April 11, 2012

**Date(s) of NOV(s):** N/A

**Date(s) of NOE(s):** June 19, 2012

**Asuda Holdings LLC d/b/a 7-Eleven**

**RN101532281**

**Docket No. 2012-1297-PST-E**

**Violation Information**

1. Failed to investigate a suspected release within 30 days of discovery [30 TEX. ADMIN. CODE § 334.74].
2. Failed to report a suspected release to the agency within 24 hours of discovery [30 TEX. ADMIN. CODE § 334.72].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

None

**Technical Requirements:**

1. Within 30 days:
  - a. Conduct an investigation of the suspected release and implement appropriate corrective measures; and
  - b. Establish and implement a process for reporting suspected releases.
2. Within 45 days, submit written certification to demonstrate compliance.

**Litigation Information**

**Date Petition(s) Filed:** October 22, 2012; December 11, 2012

**Date Answer(s) Filed:** November 5, 2012

**SOAH Referral Date:** December 11, 2012

**Hearing Date(s):**

Preliminary hearing: January 31, 2013

Evidentiary hearing: April 18, 2013 (scheduled)

**Settlement Date:** April 17, 2013

**Contact Information**

**TCEQ Attorneys:** Steven M. Fishburn, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Jamey Murphy, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Jill Russell, Enforcement Division, (512) 239-4564

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

**Respondent:** Shamim Mohsin, Director, Asuda Holdings LLC, 309 Boulder Drive, Southlake, Texas 76092

**Respondent's Attorney:** Donald H. Grissom, Grissom & Thompson, L.L.P., 500 West 12th Street, Austin, Texas 78701



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|              |                 |             |                  |             |
|--------------|-----------------|-------------|------------------|-------------|
| <b>DATES</b> | <b>Assigned</b> | 25-Jun-2012 |                  |             |
|              | <b>PCW</b>      | 5-Nov-2012  | <b>Screening</b> | 28-Jun-2012 |
|              |                 |             | <b>EPA Due</b>   |             |

|  |                                 |
|--|---------------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                                 |
| <b>Respondent</b>                      | Asuda Holdings LLC dba 7-Eleven |
| <b>Reg. Ent. Ref. No.</b>              | RN101532281                     |
| <b>Facility/Site Region</b>            | 4-Dallas/Fort Worth             |
| <b>Major/Minor Source</b>              | Major                           |

|  |                        |                              |                    |
|--|------------------------|------------------------------|--------------------|
| <b>CASE INFORMATION</b>                |                        |                              |                    |
| <b>Enf./Case ID No.</b>                | 44433                  | <b>No. of Violations</b>     | 2                  |
| <b>Docket No.</b>                      | 2012-1297-PST-E        | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Petroleum Storage Tank | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                        | <b>Enf. Coordinator</b>      | Jill Russell       |
|  |                        | <b>EC's Team</b>             | Enforcement Team 3 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0                    | <b>Maximum</b>               | \$10,000           |

## Penalty Calculation Section

|   |                   |          |
|---|-------------------|----------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$22,500 |
|---|-------------------|----------|

|  |  |         |
|--|--|---------|
| <b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>   |  |         |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. |  |         |
| <b>Compliance History</b>  | 20.0% Enhancement <b>Subtotals 2, 3, &amp; 7</b> | \$4,500 |

Notes: Enhancement for one order with a denial of liability.

|                    |    |                  |                   |     |
|--------------------|----|------------------|-------------------|-----|
| <b>Culpability</b> | No | 0.0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

|  |                   |     |
|--|-------------------|-----|
| <b>Good Faith Effort to Comply Total Adjustments</b> | <b>Subtotal 5</b> | \$0 |
|--|-------------------|-----|

|                            |                   |                                   |     |
|----------------------------|-------------------|-----------------------------------|-----|
| <b>Economic Benefit</b>    | 0.0% Enhancement* | <b>Subtotal 6</b>                 | \$0 |
| Total EB Amounts           | \$491             | *Capped at the Total EB \$ Amount |     |
| Approx. Cost of Compliance | \$5,100           |                                   |     |

|                             |                       |          |
|-----------------------------|-----------------------|----------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$27,000 |
|-----------------------------|-----------------------|----------|

|   |      |                   |       |
|---|------|-------------------|-------|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.4% | <b>Adjustment</b> | \$100 |
|---|------|-------------------|-------|

Reduces or enhances the Final Subtotal by the indicated percentage.

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

|                             |          |
|-----------------------------|----------|
| <b>Final Penalty Amount</b> | \$27,100 |
|-----------------------------|----------|

|                                   |                               |          |
|-----------------------------------|-------------------------------|----------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$27,100 |
|-----------------------------------|-------------------------------|----------|

|                 |      |           |                   |     |
|-----------------|------|-----------|-------------------|-----|
| <b>DEFERRAL</b> | 0.0% | Reduction | <b>Adjustment</b> | \$0 |
|-----------------|------|-----------|-------------------|-----|

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

Notes: Deferral not offered for non-expedited settlement.

|                        |          |
|------------------------|----------|
| <b>PAYABLE PENALTY</b> | \$27,100 |
|------------------------|----------|

**Screening Date** 28-Jun-2012

**Docket No.** 2012-1297-PST-E

**PCW**

**Respondent** Asuda Holdings LLC dba 7-Eleven

*Policy Revision 2 (September 2002)*

**Case ID No.** 44433

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN101532281

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Jill Russell

### 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> )  | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )                              | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

**Adjustment Percentage (Subtotal 2)** 20%

**>> 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 order with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

Screening Date 28-Jun-2012

Docket No. 2012-1297-PST-E

PCW

Respondent Asuda Holdings LLC dba 7-Eleven

Policy Revision 2 (September 2002)

Case ID No. 44433

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101532281

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to investigate a suspected release within 30 days of discovery. Specifically, inventory control records for April 2011 through March 2012 indicated a suspected release that was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | X     |          |       |

Percent 50%

>> 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 4 364 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | X |
| semiannual   |   |
| annual       |   |
| single event |   |

mark only one with an x

Violation Base Penalty \$20,000

Four quarterly events are recommended from the release investigation due date of June 30, 2011, to the June 28, 2012 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 \$20,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$391

Violation Final Penalty Total \$24,089

This violation Final Assessed Penalty (adjusted for limits) \$24,089

# Economic Benefit Worksheet

**Respondent** Asuda Holdings LLC dba 7-Eleven  
**Case ID No.** 44433  
**Reg. Ent. Reference No.** RN101532281  
**Media Violation No.** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

|                          |         |             |             |      |       |     |       |
|--------------------------|---------|-------------|-------------|------|-------|-----|-------|
| Equipment                |         |             |             | 0.00 | \$0   | \$0 | \$0   |
| Buildings                |         |             |             | 0.00 | \$0   | \$0 | \$0   |
| Other (as needed)        |         |             |             | 0.00 | \$0   | \$0 | \$0   |
| Engineering/construction |         |             |             | 0.00 | \$0   | \$0 | \$0   |
| Land                     |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Record Keeping System    |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Training/Sampling        |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Remediation/Disposal     |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Permit Costs             |         |             |             | 0.00 | \$0   | n/a | \$0   |
| Other (as needed)        | \$5,000 | 30-Jun-2011 | 21-Jan-2013 | 1.56 | \$391 | n/a | \$391 |

**Notes for DELAYED costs**  
 Estimated cost to investigate a suspected release. Date Required is 30 days after the discovery of the suspected release. 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 \$5,000

**TOTAL** \$391

Screening Date 28-Jun-2012

Docket No. 2012-1297-PST-E

PCW

Respondent Asuda Holdings LLC dba 7-Eleven

Policy Revision 2 (September 2002)

Case ID No. 44433

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101532281

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.72

Violation Description

Failed to report a suspected release to the agency within 24 hours of discovery. Specifically, inventory control records for April and May 2011 indicated a suspected release that was not reported.

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 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 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.

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

Statutory Limit Test

Estimated EB Amount \$100

Violation Final Penalty Total \$3,011

This violation Final Assessed Penalty (adjusted for limits) \$3,011

## Economic Benefit Worksheet

**Respondent** Asuda Holdings LLC dba 7-Eleven  
**Case ID No.** 44433  
**Reg. Ent. Reference No.** RN101532281  
**Media Violation No.** Petroleum Storage Tank  
 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]    | \$100 | 1-Jun-2011 | 2-Jun-2011 | 0.00 | \$0 | \$100 | \$100 |
| Other (as needed)             |       |            |            | 0.00 | \$0 | \$0   | \$0   |

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. The date required is the date of the suspected release and the final date is the date the report was due.

Approx. Cost of Compliance \$100

**TOTAL** \$100

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600803902 Asuda Holdings LLC Classification: AVERAGE Rating: 9.16  
Regulated Entity: RN101532281 7-Eleven 1602 39059A Classification: AVERAGE Site Rating: 15.00  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 71839  
Location: 3976 ROSEMEADE PARKWAY, DALLAS, DENTON COUNTY, TEXAS  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: June 28, 2012

Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 28, 2007 to June 28, 2012  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Jill Russell Phone: 512-239 - 4564

## 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.

**Effective Date:** 10/23/2008 **ADMINORDER 2004-1314-PST-E**  
Classification: Moderate  
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)  
30 TAC Chapter 37, SubChapter I 37.815(b)  
Description: Failure to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

- 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 | 06/19/2012 | (1009785) |
| 2 | 02/26/2008 | (636642)  |
| 3 | 12/23/2009 | (782960)  |
| 4 | 02/08/2012 | (980679)  |

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

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ASUDA HOLDINGS LLC  
DBA 7-ELEVEN;  
RN101532281**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2012-1297-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Asuda Holdings LLC d/b/a 7-Eleven ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Donald H. Grissom of the law firm Grissom & Thompson, L.L.P., together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 3976 Rosemeade Parkway in Dallas, Denton County, Texas (Facility ID No. 71839) (the "Facility"). The USTs at the Facility 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.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of twenty-seven thousand one hundred dollars (\$27,100.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid Seven hundred eighty dollars (\$780.00) of the administrative penalty. The remaining amount of twenty-six thousand three hundred twenty dollars (\$26,320.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of seven hundred fifty-two dollars (\$752.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall

become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
9. 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.
10. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

1. During an investigation conducted on April 11, 2012, a UT Arlington PST investigator, under contract with TCEQ, documented that Respondent:
  - a. Failed to investigate a suspected release within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, inventory control records for April 2011 through March 2012 indicated suspected releases that were not investigated; and
  - b. Failed to report a suspected release to the agency within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, inventory control records for April and May 2011 indicated suspected releases that were not reported.
2. Respondent received notice of the violations on or about June 24, 2012.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments

shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: ASUDA HOLDINGS LLC d/b/a 7-Eleven, Docket No. 2012-1297-PST-E" to:

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

2. Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Respondent shall:
  - i. Conduct an investigation of the suspected release and implement appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
  - ii. Establish and implement a process for reporting suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.72.
- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i. and 2.a.ii. The certification 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 certification 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:

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

3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to

personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

ASUDA HOLDINGS LLC d/b/a 7-Eleven  
Docket No. 2012-1297-PST-E  
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**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

  
\_\_\_\_\_  
For the Executive Director

June 12, 2013  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of ASUDA HOLDINGS LLC d/b/a 7-Eleven, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
\_\_\_\_\_  
Signature - Shamim Mohsin, Director  
ASUDA HOLDINGS LLC

4-17-2013  
Date