

**Executive Summary – Enforcement Matter – Case No. 48414
STROEHER & SON, INC. dba Stroehler & Son Bulk Plant
RN101764603
Docket No. 2014-0409-MLM-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MLM - MSW, PST

Small Business:

No

Location(s) Where Violation(s) Occurred:

Stroehler & Son Bulk Plant, 119 East Park Street, Fredericksburg, Gillespie County

Type of Operation:

Retail fuel station

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: July 25, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$27,250

Amount Deferred for Expedited Settlement: \$5,450

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$21,800

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Unclassified

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 48414
STROEHER & SON, INC. dba Stroehler & Son Bulk Plant
RN101764603
Docket No. 2014-0409-MLM-E

Investigation Information

Complaint Date(s): October 4, 2013

Complaint Information: Alleged the above-ground fuel storage tank area (7 tanks) located on a patch of dirt with a cement wall around the tanks but with no apparent containment was draining gasoline from an opening. The gasoline was discharging on to a street. The fuel was visible on the street and black staining indicated an on-going issue. There was a very strong fuel odor associated with the discharge. There was no fence thus making the contaminated soil accessible to the public.

Date(s) of Investigation: November 8, 2013

Date(s) of NOE(s): February 14, 2014

Violation Information

1. Failed to prevent unauthorized disposal of municipal solid waste (“MSW”). Specifically, fuel was observed leaking into the soil and the adjacent street from the pipelines of the aboveground storage tanks (“ASTs”) [30 TEX. ADMIN. CODE § 330.15(c)].
2. Failed to take immediate action to prevent any further releases of the regulated substance into the environment, including reporting the release to the TCEQ within 24 hours and shutting down the leaking ASTs system if necessary. Specifically, the piping associated with the AST system was discovered to be leaking and the Respondent did not report the release and continued loading and dispensing regulated substances into/from the AST system [30 TEX. ADMIN. CODE § 334.76 and TEX. WATER CODE § 26.039].
3. Failed to perform initial abatement measures [30 TEX. ADMIN. CODE § 334.77].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately:
 - i. Cease the disposal of MSW at the Facility; and
 - ii. Cease any additional release of regulated substances into the environment, including but not limited to shutting down the leaking AST system.

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b. Within 30 days:

- i. Remove all MSW from the Facility and dispose of it at an authorized facility;
- ii. Establish and implement a process for reporting releases at the Facility; and
- iii. Conduct an investigation of the release and implement appropriate corrective measures at the Facility.

c. Within 60 days, submit written certification to demonstrate compliance with a.i. through b.iii.

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: Steven Van Landingham, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5717; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Roy Stroehler, President, STROEHER & SON, INC. dba Stroehler & Son Bulk Plant, 509 South Adams Street, Fredericksburg, Texas 78624

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	17-Feb-2014	Screening	4-Mar-2014	EPA Due	
	PCW	9-May-2014				

RESPONDENT/FACILITY INFORMATION	
Respondent	STROEHER & SON, INC. dba Stroehrer & Son Bulk Plant
Reg. Ent. Ref. No.	RN101764603
Facility/Site Region	13-San Antonio
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	48414	No. of Violations	3
Docket No.	2014-0409-MLM-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Petroleum Storage Tank	Enf. Coordinator	Steven Van Landingham
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$26,250**

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** **\$0**

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

Total EB Amounts: \$3,693
Approx. Cost of Compliance: \$61,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$26,250**

OTHER FACTORS AS JUSTICE MAY REQUIRE **3.8%** **Adjustment** **\$1,000**

Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount **\$27,250**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$27,250**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$5,450**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$21,800**

Screening Date 4-Mar-2014

Docket No. 2014-0409-MLM-E

PCW

Respondent STROEHER & SON, INC. dba Stroehrer & Son Bulk

Policy Revision 3 (September 2011)

Case ID No. 48414

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101764603

Media [Statute] Municipal Solid Waste

Enf. Coordinator Steven Van Landingham

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)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 4-Mar-2014

Docket No. 2014-0409-MLM-E

PCW

Respondent STROEHER & SON, INC. dba Stroehler & Son Bulk Plant

Policy Revision 3 (September 2011)

Case ID No. 48414

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101764603

Media [Statute] Municipal Solid Waste

Enf. Coordinator Steven Van Landingham

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 330.15(c)

Violation Description Failed to prevent unauthorized disposal of municipal solid waste ("MSW"). Specifically, fuel was observed leaking into the soil and the adjacent street from the pipelines of the aboveground storage tank ("AST").

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2 116 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 based on documentation of the violation during the November 8, 2013 investigation to the March 4, 2014 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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$447

Violation Final Penalty Total \$7,786

This violation Final Assessed Penalty (adjusted for limits) \$7,786

Economic Benefit Worksheet

Respondent STROEHER & SON, INC. dba Stroehler & Son Bulk Plant
Case ID No. 48414
Reg. Ent. Reference No. RN101764603
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	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	\$10,000	8-Nov-2013	30-Sep-2014	0.89	\$447	n/a	\$447
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to dispose of the MSW at an authorized facility. 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)

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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$447

Screening Date 4-Mar-2014

Docket No. 2014-0409-MLM-E

PCW

Respondent STROEHER & SON, INC. dba Stroehler & Son Bulk Plant

Policy Revision 3 (September 2011)

Case ID No. 48414

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101764603

Media [Statute] Municipal Solid Waste

Enf. Coordinator Steven Van Landingham

Violation Number 2

Rule Cite(s) 30 Tex. Admin Code § 334.76 and Tex. Water Code § 26.039

Violation Description

Failed to take immediate action to prevent any further releases of the regulated substance into the environment, including reporting the release to the TCEQ within 24 hours and shutting down the leaking AST system if necessary. Specifically, the piping associated with the AST system was discovered to be leaking and the Respondent did not report the release and continued loading and dispensing regulated substances into/from the AST system.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			X		
100% of the rule requirements were not met.					

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 116 Number of violation days

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

Violation Base Penalty \$3,750

One single event is recommended.

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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,000

Violation Final Penalty Total \$3,893

This violation Final Assessed Penalty (adjusted for limits) \$3,893

Economic Benefit Worksheet

Respondent STROEHER & SON, INC. dba Stroehler & Son Bulk Plant
Case ID No. 48414
Reg. Ent. Reference No. RN101764603
Media Municipal Solid Waste
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description 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]	\$1,000	6-Nov-2013	7-Nov-2013	0.00	\$0	\$1,000
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a release and to take immediate action to prevent further release. The date required is the date the spill occurred, and the final date is the date the report was due.

Approx. Cost of Compliance \$1,000

TOTAL \$1,000

Screening Date 4-Mar-2014

Docket No. 2014-0409-MLM-E

PCW

Respondent STROEHER & SON, INC. dba Stroehler & Son Bulk Plant

Policy Revision 3 (September 2011)

Case ID No. 48414

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101764603

Media [Statute] Municipal Solid Waste

Enf. Coordinator Steven Van Landingham

Violation Number 3

Rule Cite(s) 30 Tex. Admin Code § 334.77

Violation Description Failed to perform initial abatement measures.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 \$17,500

\$7,500

Violation Events

Number of Violation Events 2

116 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Two quarterly events are recommended based on documentation of the violation during the November 8, 2013 investigation to the March 4, 2014 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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2,247

Violation Final Penalty Total \$15,571

This violation Final Assessed Penalty (adjusted for limits) \$15,571

Economic Benefit Worksheet

Respondent STROEHER & SON, INC. dba Stroehrer & Son Bulk Plant
Case ID No. 48414
Reg. Ent. Reference No. RN101764603
Media Municipal Solid Waste
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
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	\$50,000	6-Nov-2013	30-Sep-2014	0.90	\$2,247	n/a	\$2,247
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an investigation of the release and implement appropriate corrective measures. The date required is the date the spill occurred, 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 \$50,000

TOTAL \$2,247



Compliance History Report

PUBLISHED Compliance History Report for CN600777536, RN101764603, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN600777536, STROEHER & SON INC.	Classification:	SATISFACTORY	Rating:	1.22
Regulated Entity:	RN101764603, STROEHER & SON BULK PLANT	Classification:	UNCLASSIFIED	Rating:	-----
Complexity Points:	7	Repeat Violator:	NO		
CH Group:	14 - Other				
Location:	119 E PARK ST FREDERICKSBURG, TX 78624-4504, GILLESPIE COUNTY				
TCEQ Region:	REGION 13 - SAN ANTONIO				

ID Number(s):
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 65564 TIRES REGISTRATION 1698

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: March 04, 2014

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 04, 2009 to March 04, 2014

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Steven Van Landingham

Phone: (512) 239-5717

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, 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

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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
STROEHER & SON, INC. DBA
STROEHER & SON BULK PLANT
RN101764603**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2014-0409-MLM-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 STROEHER & SON, INC. dba Stroehler & Son Bulk Plant ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and 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 a retail fuel station at 119 East Park Street in Fredericksburg, Gillespie County, Texas (the "Facility").
2. The Respondent's nine aboveground storage tanks ("ASTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Facility also involves or involved the management of municipal solid waste ("MSW") as defined in TEX. HEALTH & SAFETY CODE ch. 361.
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 February 19, 2014.
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 Twenty-Seven Thousand Two Hundred Fifty Dollars (\$27,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twenty-One Thousand Eight Hundred Dollars (\$21,800) of the administrative penalty and Five Thousand Four Hundred Fifty Dollars (\$5,450) 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 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.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to prevent unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on November 8, 2013. Specifically, fuel was observed leaking into the soil and the adjacent street from the pipelines of the ASTs.
2. Failed to take immediate action to prevent any further releases of the regulated substance into the environment, including reporting the release to the TCEQ within 24 hours and shutting down the leaking AST system if necessary, in violation of 30 TEX. ADMIN. CODE § 334.76 and TEX. WATER CODE § 26.039, as documented during an investigation conducted on November 8, 2013. Specifically, the piping associated with the AST system was discovered to be leaking and the Respondent did not report the release and continued loading and dispensing regulated substances into/from the AST system.

3. Failed to perform initial abatement measures, in violation of 30 TEX. ADMIN. CODE § 334.77, as documented during an investigation conducted on November 8, 2013.

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: STROEHER & SON, INC. dba Stroehler & Son Bulk Plant, Docket No. 2014-0409-MLM-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
 - i. Cease the disposal of MSW at the Facility; and
 - ii. Cease any additional release of regulated substances into the environment, including but not limited to shutting down the leaking AST system.
 - b. Within 30 days after the effective date of this Agreed Order:
 - i. Remove all MSW from the Facility and dispose of it at an authorized facility;
 - ii. Establish and implement a process for reporting releases at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.76; and
 - iii. Conduct an investigation of the release and implement appropriate corrective measures at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.77.

- c. Within 60 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.i. through 2.b.iii. 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

Pamela Marie J
For the Executive Director

7/17/15
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.

Roy E. Stroehrer
Signature

6-25-14
Date

ROY E. STROEHER
Name (Printed or typed)
Authorized Representative of
STROEHER & SON, INC. dba Stroehrer & Son Bulk Plant

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.