

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

December 16, 2013

Anne Idsal
General Counsel
Texas Commission on Environmental Quality
P.O. Box 13087
Austin Texas 78711-3087

Re: SOAH Docket No. 582-13-4033; TCEQ Docket No. 2012-2570-PST-E; In Re: Executive Director of the Texas Commission on Environmental Quality v. Sashi C. Tanwar d/b/a Star Food Mart 1

Dear Ms. Idsal:

The above-referenced matter will be considered by the Texas Commission on Environmental Quality on a date and time to be determined by the Chief Clerk's Office in Room 201S of Building E, 12118 N. Interstate 35, Austin, Texas.

Enclosed are copies of the Proposal for Decision and Order that have been recommended to the Commission for approval. Any party may file exceptions or briefs by filing the documents with the Chief Clerk of the Texas Commission on Environmental Quality no later than January 6, 2014. Any replies to exceptions or briefs must be filed in the same manner no later than January 16, 2014.

This matter has been designated **TCEQ Docket No. 2012-2570-PST-E; SOAH Docket No. 582-13-4033**. All documents to be filed must clearly reference these assigned docket numbers. All exceptions, briefs and replies along with certification of service to the above parties shall be filed with the Chief Clerk of the TCEQ electronically at <http://www10.tceq.state.tx.us/epic/efilings/> or by filing an original and seven copies with the Chief Clerk of the TCEQ. Failure to provide copies may be grounds for withholding consideration of the pleadings.

Sincerely,


Sharon Cloninger
Administrative Law Judge

SC/lh
Enclosures
cc: Mailing List

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)

STYLE/CASE: SHASHI C. TANWAR DBA STAR FOOD MART 1

SOAH DOCKET NUMBER: 582-13-4033

REFERRING AGENCY CASE: 2012-2570-PST-E

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ SHARON CLONINGER**

REPRESENTATIVE / ADDRESS

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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SHASHI C. TANWAR D/B/A STAR FOOD MART 1

**SOAH DOCKET NO. 582-13-4033
TCEQ DOCKET NO. 2012-2570-PST-E**

**EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

v.

**SHASHI C. TANWAR D/B/A STAR
FOOD MART 1,
Respondent**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

I. INTRODUCTION

The Executive Director (ED) of the Texas Commission on Environmental Quality (TCEQ or Commission) alleges that Shashi C. Tanwar d/b/a Star Food Mart 1 (Respondent) violated various rules and a prior agreed order regarding the underground storage tank (UST) system at her convenience store. The ED recommends that the Commission assess an administrative penalty of \$23,625 for these violations and order Respondent to take corrective action. Respondent did not dispute the alleged violations, the proposed penalty, or the recommended corrected action.

The Administrative Law Judge (ALJ) finds that, although Respondent has since corrected one of the violations, Respondent nevertheless committed the alleged violations and the proposed penalty and corrective actions are just and in accordance with applicable law and the Commission's penalty policy (Penalty Policy).¹ The ALJ recommends that the Commission assess the penalty and order the corrective action recommended by the ED as updated at the hearing on the merits.

¹ The Penalty Policy became effective September 1, 2011. ED Ex. 8.

II. NOTICE, JURISDICTION, AND HEARING

Respondent does not dispute the adequacy of notice, or the jurisdiction of the Commission and the State Office of Administrative Hearings (SOAH). Therefore, those matters are set out in the Findings of Fact and Conclusions of Law in the Proposed Order.

The hearing was held November 5, 2013, before ALJ Sharon Cloninger at SOAH, William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Kari L. Gilbreth, Staff Attorney, appeared in person on behalf of the ED. Mohan Tanwar, Shashi Tanwar's husband, appeared via telephone on behalf of Respondent. The hearing concluded and the record closed that same day.

III. THE VIOLATIONS

Respondent operates a UST system and a convenience store with retail sales of gasoline at Star Food Mart 1 located at 1799 East Lancaster Avenue, Fort Worth, Tarrant County, Texas 76103 (Facility).

On March 2, 2012, the Commission issued an Agreed Order in TCEQ Docket No. 2011-1108-PST-E (Agreed Order), to which Respondent had consented on October 11, 2011.² Ordering Provision No. 2.a.i. of the Agreed Order required Respondent to immediately begin maintaining all UST records.³ Ordering Provision No. 2.b.i. required Respondent to implement a release detection method for the USTs within 30 days of the Agreed Order.⁴ Respondent was required to install spill containment equipment within 30 days of the Agreed Order pursuant to Ordering Provision No. 2.b.ii.⁵ On July 31, 2012, the TCEQ DFW Regional Office received a

² ED Exs. 5 and 6.

³ ED Ex. 5 at 3.

⁴ ED Ex. 5 at 3.

⁵ ED Ex. 5 at 4.

request from the TCEQ Enforcement Division Order Compliance Team in Austin to investigate the Facility to determine compliance with the Agreed Order.⁶

On September 20, 2012, Commission investigators Robert Lonnie Gilley and Brittany Sousa inspected the Facility.⁷ The USTs at the Facility contained a regulated petroleum substance as defined in the Commission's rules. They were not exempt or excluded from regulation under the Texas Water Code or the Commission's rules.

Mr. Gilley and Ms. Sousa found Respondent failed to comply with the Agreed Order in the following ways:

- the USTs had not been monitored for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring);
- the UST records had not been maintained and made immediately available to the inspectors for inspection upon their request; and
- the USTs were not equipped with spill containment equipment.

In addition, Mr. Gilley and Ms. Sousa observed a new violation:

- the USTs at the Facility had no form of corrosion protection.⁸

The investigators performed an exit interview with Mr. Tanwar, explaining to him how to achieve compliance and informing him of what documentation needed to be submitted to TCEQ to resolve the alleged violations.⁹

⁶ ED Ex. 4 at 4.

⁷ The investigation report states the inspection occurred on September 13, 2012, but Mr. Gilley testified that the actual date of the inspection was September 20, 2012. *See* ED Ex. 4.

⁸ ED Ex. 4 at 4.

⁹ ED Ex. 4 at 6 and 18-21.

On October 18, 2013, the ED issued his First Amended Preliminary Report and Petition, recommending that the Commission enter an enforcement order assessing an administrative penalty against Respondent in the amount of \$24,000, and requiring corrective action.¹⁰ The ED established that the violations occurred.

IV. PROPOSED PENALTY

Mike Pace is an enforcement coordinator for the Commission. He testified and presented the ED's proposed penalty. The maximum allowable penalty the four violations is \$25,000 each. Using the Penalty Policy, Mr. Pace calculated a total base penalty of \$20,000, adding a 20% enhancement of \$4,000 because the Agreed Order contained a denial of liability, for a total of \$24,000. But because Respondent made a good faith effort to comply with the Agreed Order, the penalty amount was reduced by \$375, for a total of \$23,625.¹¹

A. ED's Evidence

1. Failure to Monitor USTs for Releases¹²

Under the Penalty Policy, Respondent's UST system, with a capacity of 36,000 gallons, is considered a minor source. However, according to Mr. Pace, the violations created the potential for a release of contaminants into the environment that could cause major harm¹³ and, as of the hearing date, Respondent remained out of compliance. The base penalty for such violations is \$25,000 per violation before adjusting for other factors. In calculating a penalty, Mr. Pace assumed only one penalty event per quarter for 233 days, which is the number of days between the effective date of the Agreed Order and the date this case was screened for

¹⁰ ED Ex. 1. The ED subsequently lowered the proposed penalty amount to \$23,625. *See* ED Ex. 2.

¹¹ ED Ex. 2 at 1.

¹² ED Ex. 2 at 3.

¹³ A search of TCEQ records did not reveal a release between January 1, 2010, and October 21, 2013, for Respondent's USTs. ED Ex. 7.

enforcement action. In addition, the base penalty was reduced by 85% for a total of \$3,750 per event. A penalty of \$3,750 per quarter for three quarters totals \$11,250. Mr. Pace increased that by 20% because Respondent had failed to comply with the Agreed Order. The 20% percent upward adjustment of the \$11,250 subtotal resulted in the \$13,500 penalty that the ED proposed for this violation.¹⁴

2. Failure to Maintain UST Records

Mr. Pace testified that, under the Penalty Policy, Respondent's failure to maintain UST records and make them immediately available for inspection upon request by agency personnel constitutes a major violation because 100% of the rule requirement was not met. The base penalty is \$25,000 per violation before adjusting for other factors. In calculating a penalty, Mr. Pace assumed only one penalty event for the 233 days between the effective date of the Agreed Order and the date this case was screened for enforcement action. In addition, Mr. Pace reduced the base penalty by 95% in accordance with the Penalty Policy for a total of \$1,250. However, he increased that by 20% because Respondent had failed to comply with the Agreed Order. The 20% percent upward adjustment of the \$1,250 subtotal resulted in the \$1,500 penalty that the ED proposed for this violation.¹⁵

3. Failure to Equip USTs with Spill Containment Equipment

According to Mr. Pace, Respondent's failure to equip the USTs with spill containment equipment creates the potential for moderate harm to human health or the environment. The base penalty for such violations is \$25,000 per violation before adjusting for other factors. In calculating a penalty, Mr. Pace assumed only one penalty event per quarter for 233 days, which is the number of days between the effective date of the Agreed Order and the date this case was screened for enforcement action, for a total of three events. In addition, Mr. Pace reduced the base penalty by 95% in accordance with the Penalty Policy, for a total of \$1,250 per event. A

¹⁴ ED Ex. 2 at 2-4.

¹⁵ ED Ex. 2 at 2 and 5-6.

penalty of \$1,250 per quarter for three quarters totals \$3,750. Mr. Pace increased that by 20% because Respondent had failed to comply with the Agreed Order. The 20% percent upward adjustment of the \$3,750 subtotal resulted in the \$4,500 penalty. However, Mr. Pace reduced the \$3,750 penalty amount by 10%, or \$375, because Respondent came into compliance on November 27, 2012, after the October 31, 2012 Notice of Enforcement was issued. Subtracting the \$375 from the \$4,500 resulted in the ED's proposed penalty of \$4,125 for this violation.¹⁶

4. Failure to Provide Corrosion Protection to All Underground Components of USTs

Mr. Pace testified that, under the Penalty Policy, Respondent's failure to provide corrosion protection to all underground metal components of the USTs is a violation that created the potential for a release of pollutants into the environment that could cause major harm under the Penalty Policy. The base penalty for such violations is \$25,000 per violation before adjusting for other factors. In calculating a penalty, Mr. Pace assumed only one penalty event per quarter based on the 47 days from the documentation of the violation during the September 20, 2012 investigation to the November 6, 2012 screening date. In addition, he reduced the base penalty by 85% pursuant to the Penalty Policy for a total of \$3,750. Although Respondent is currently in compliance regarding this violation, Mr. Pace increased the \$3,750 penalty by 20% because of Respondent's overall compliance history. The 20% percent upward adjustment of the \$3,750 subtotal resulted in the \$4,500 penalty that the ED proposed for this violation.¹⁷

B. Respondent's Evidence

Respondent offered no evidence to contradict Mr. Pace's testimony. The ALJ concludes that the proposed penalty complies with applicable law and the Penalty Policy.

¹⁶ ED Ex. 2 at 2 and 7-8.

¹⁷ ED Ex. 2 at 2 and 9-10.

C. ALJ's Analysis

The ED met his burden of proof because the preponderance of the evidence demonstrates that the \$23,625 proposed penalty amount was properly calculated pursuant to Chapter 7 of the Texas Water Code and TCEQ's Penalty Policy. Therefore, The ALJ concludes that the proposed penalty complies with applicable law and the Penalty Policy.

V. SUMMARY

The ALJ recommends that the Commission adopt the attached proposed order, assessing Respondent a total penalty of \$23,625 for the violations proven in this case and requiring Respondent to take the corrective action proposed by the ED.

SIGNED December 16, 2013.



SHARON CLONINGER
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER
ASSESSING ADMINISTRATIVE PENALTIES AGAINST AND
ORDERING CORRECTIVE ACTION BY
SHASHI C. TANWAR D/B/A STAR FOOD MART 1,
TCEQ DOCKET NO. 2012-2570-PST-E,
SOAH DOCKET NO. 582-13-4033**

On _____, the Texas Commission on Environmental Quality (TCEQ or Commission) considered the Executive Director's First Amended Report and Petition recommending that the Commission enter an order assessing administrative penalties against and requiring corrective action by Shashi C. Tanwar d/b/a Star Food Mart 1 (Respondent). A Proposal for Decision (PFD) was presented by Sharon Cloninger, an Administrative Law Judge (ALJ) with the State Office of Administrative Hearings (SOAH), who conducted a hearing concerning the First Amended Report and Petition on November 5, 2013, in Austin, Texas.

After considering the ALJ's PFD, the Commission adopts the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Respondent owns and operates an underground storage tank (UST) system at Star Food Mart 1 at 1799 East Lancaster Avenue, Fort Worth, Texas 76103 (Facility).
2. The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the Commission's rules.
3. The USTs contain a regulated petroleum substance as defined in the Commission's rules.
4. On March 18, 2012, the Commission issued TCEQ Agreed Order Docket No. 2011-1108-PST-E (Agreed Order) to which Respondent had consented on October 11, 2011. Ordering Provision No. 2.a. of the Agreed Order required Respondent to begin maintaining all UST records; Ordering Provision 2.b.i. required Respondent to implement

- a release detection method; and Ordering Provision 2.b.ii. required Respondent to install spill containment equipment.
5. As of September 20, 2012, Respondent had not begun keeping UST records.
 6. As of September 20, 2012, Respondent had not implemented a release detection method.
 7. Respondent's failure to monitor the USTs for releases created a potential for a release of contaminants that could cause major harm to human health or the environment.
 8. As of September 20, 2012, Respondent had failed to equip the USTs with spill containment equipment.
 9. Respondent's failure to install spill containment equipment on the USTs created a potential for a release of pollutants that could cause moderate harm to human health or the environment.
 10. As of September 20, 2012, Respondent had failed to provide corrosion protection to all underground metal components of the USTs.
 11. Respondent's failure to provide corrosion protection to all the underground metal components of the USTs created a potential for a release of pollutants that could cause major harm to human health or the environment.
 12. On February 25, 2013, the ED filed his Preliminary Report and Petition and mailed a copy of it to Respondent at her last address of record known to the Commission.
 13. On October 18, 2013, the ED filed a First Amended Preliminary Report and Petition (EDFARP) and mailed a copy of it to Respondent at her last address of record known to the Commission.
 14. In the EDFARP, the ED alleged that Respondent had violated 30 Texas Administrative Code § 334.10(b) and Agreed Order Ordering Provision 2.a. by failing to maintain UST records and make them immediately available for inspection upon request by agency personnel.
 15. In the EDFARP, the ED alleged that Respondent had violated Texas Water Code § 26.3475(c)(1), 30 Texas Administrative Code § 334.50(b)(1)(a), and Agreed Order Ordering Provision No. 2.b.i. by failing to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).
 16. In the EDFARP, the ED alleged that Respondent had violated Texas Water Code § 26.3475(c)(2), 30 Texas Administrative Code § 334.501(b)(2)(B), and Agreed Order Ordering Provision No. 2.b.ii. by failing to equip the USTs with spill containment equipment.

17. Respondent equipped the USTs with spill containment equipment on November 27, 2012, after the Notice of Enforcement dated October 31, 2012.
18. In the EDFARP, the ED alleged that Respondent had violated Texas Water Code § 26.3475(d) and 30 Texas Administrative Code § 334.49(b)(2) by failing to provide corrosion protection to all underground metal components of the USTs.
19. The ED proposed administrative penalties of \$23,625 for these violations.
20. The ED also recommended that Respondent be required to take corrective action.
21. The Commission has adopted a Penalty Policy setting forth its policy regarding the computation and assessment of administrative penalties, effective September 1, 2011.
22. In calculating a penalty, the ED treated the Respondent's failure to maintain UST records as one violation and calculated a penalty that assumed only one penalty event for 233 days, which represented the number of days between the March 18, 2012 Agreed Order effective date to the November 6, 2012 screening date.
23. In accordance with the Commission's Penalty Policy:
 - a. The base penalty for the failure to maintain UST records is \$25,000 per violation, before adjusting for other factors;
 - b. The ED reduced the base-penalty total by 95% based on the Penalty Policy and increased the subtotal of \$1,250 by 20% because the Agreed Order had been issued; and
 - c. The upward adjustment of the \$1,250 subtotal resulted in the \$1,500 penalty that the ED proposes.
24. In calculating a penalty, the ED treated Respondent's failure to monitor the USTs as three violations and calculated a penalty that assumed only one penalty event per quarter for 233 days, which represented the number of days between the effective date of the Agreed Order and the date this case was screened for enforcement action by the ED.
25. In accordance with the Commission's Penalty Policy:
 - a. Respondent's UST system is a minor source;
 - b. The base penalty for failure to monitor USTs is \$25,000 per violation before adjusting for other factors;
 - c. The ED reduced the base-penalty total by 85% in accordance with the Penalty Policy for a subtotal of \$3,750 per violation for a total of \$11,250 and increased the subtotal by 20% because the Agreed Order had previously been issued; and

- d. The 20% upward adjustment of the subtotal of \$11,250 resulted in the \$13,500 penalty that the ED proposes.
26. In calculating a penalty, the ED treated Respondent's failure to equip the USTs with spill containment equipment as three violations and calculated a penalty that assumed only one penalty event per quarter for 233 days, which represented the number of months between the effective date of the Agreed Order and the date this case was screened for enforcement action by the ED.
 27. In accordance with the Commission's Penalty Policy:
 - a. Respondent's UST system is a minor source;
 - b. The base penalty for failure to equip USTs with spill containment equipment is \$25,000 per violation before adjusting for other factors;
 - c. The ED reduced the base penalty by 95% in accordance with the Penalty Policy for a subtotal of \$1,250 per violation or \$3,750 for the three violations and increased the subtotal by 20% for a total of \$4,500 because the Agreed Order had previously been issued;
 - d. The ED reduced the \$3,750 subtotal by 10% or \$375 because Respondent came into compliance on November 27, 2012.
 - e. Subtracting the \$375 from the \$4,500 subtotal resulted in the \$4,125 penalty that the ED proposes.
 28. In calculating a penalty, the ED treated Respondent's failure to provide corrosion protection to all underground components of the USTs as one violation and calculated a penalty that assumed only one penalty event per quarter for 47 days, which represented the number of days between the documentation of the violation during the September 20, 2012 investigation and the November 6, 2012 screening date.
 29. In accordance with the Commission's Penalty Policy:
 - a. Respondent's UST system is a minor source;
 - b. The base penalty for the failure to provide corrosion protection to all underground components of the USTs is \$25,000 per violation before adjusting for other factors;
 - c. The ED reduced the base-penalty total by 85% in accordance with the Penalty Policy, for a subtotal of \$3,750, and increased the penalty by 20% because of Respondent's compliance history as reflected by the violations of the provisions of the Agreed Order; and

- d. The 20% upward adjustment of the \$3,750 subtotal resulted in the \$4,500 penalty that the ED proposes.
30. On March 13, 2013, Respondent filed an answer to the EDFARP which the ED treated as a hearing request.
31. On April 25, 2013, the ED filed a letter asking the Commission's Chief Clerk to refer this case to SOAH for hearing and the Chief Clerk referred it to SOAH.
32. On May 13, 2013, the Chief Clerk mailed a notice of hearing to Respondent, the ED, and the Office of Public Interest Counsel.
33. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
34. The preliminary hearing was held June 13, 2013, at SOAH, William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas. Kari L. Gilbreth, Staff Attorney, appeared in person on behalf of the ED. Mohan Tanwar, the husband of Shashi C. Tanwar, appeared by telephone on behalf of Respondent.
35. The hearing was held November 5, 2013, at SOAH, William P. Clements State Office Building, 300 West 15th Street, Fourth Floor, Austin, Texas.
36. At the hearing, Ms. Gilbreth, Staff Attorney, appeared in person on behalf of the ED and Respondent was represented by Mr. Tanwar, who appeared by telephone.
37. The hearing was concluded and the record was closed on that same day.

II. CONCLUSIONS OF LAW

1. Under Texas Water Code § 7.051, the Commission may assess an administrative penalty against any person who violates a provision of the Texas Water Code, or any rule, order, or permit adopted or issued thereunder.
2. The penalty may not exceed \$25,000 per violation, per day, for each of the violations at issue in this case. Texas Water Code § 7.052.
3. In determining the amount of an administrative penalty, Texas Water Code § 7.053 requires the Commission to consider several factors, and the Penalty Policy implements those factors.
4. The Commission may order a violator to take corrective action. Tex. Water Code § 7.073.

5. SOAH has jurisdiction over matters related to the hearing in this case, including the authority to issue a PFD with findings of fact and conclusions of law. Tex. Gov't Code, ch. 2003.
6. The ED has the burden of proof in this case by a preponderance of the evidence. 30 Tex. Admin. Code § 80.17(d).
7. As required by Texas Water Code § 7.055 and 30 Texas Administrative Code §§ 1.11 and 70.104, Respondent was notified of the EDFARP and of the opportunity to request a hearing on the alleged violations, penalties, and corrective action proposed therein.
8. As required by Texas Government Code §§ 2001.051(1) and 2001.052; Texas Water Code § 7.058; 1 Texas Administrative Code § 155.401; and 30 Texas Administrative Code §§ 1.11, 1.12, 39.25, 70.104, and 80.6(b)(3), Respondent was notified of the hearing on the alleged violations and the proposed penalties and corrective action.
9. Respondent violated 30 Texas Administrative Code § 334.10(b) and the Agreed Order, Ordering Provision No. 2.a.
10. Respondent violated Texas Water Code § 26.3475(c)(1), 30 Texas Administrative Code § 334.50(b)(1)(A), and the Agreed Order, Ordering Provision No. 2.b.i.
11. Respondent violated Texas Water Code § 26.3475(c)(2), 30 Texas Administrative Code § 334.51(b)(2)(B), and the Agreed Order, Ordering Provision No. 2.b.ii.
12. Respondent violated Texas Water Code § 26.3475(d) and 30 Texas Administrative Code § 334.49(b)(2).
13. The penalty and corrective action that the ED proposed for the Respondent's violations considered in this case conform to the requirements of the Texas Water Code, ch. 7 and the Commission's Penalty Policy.
14. Respondent should be assessed a total of \$23,625 in penalties for the violations considered in this case and ordered to take the corrective action proposed by the ED and described in the Ordering Provisions below.

III. ORDERING PROVISIONS

NOW, THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, IN ACCORDANCE WITH THESE FINDINGS OF FACT AND CONCLUSIONS OF LAW, THAT:

1. Within 30 days after the effective date of this Commission Order, Respondent shall pay an administrative penalty in the amount of \$23,625 for its violations of Texas Water Code § 26.3475(c)(1), (c)(2), and (d); 30 Texas Administrative Code §§ 334.10(b),

334.49(b)(2), 334.50(b)(1)(A), and 334.51(b)(2)(B); and TCEQ Agreed Order Docket No. 2011-1108-PST-E, Ordering Provision Nos. 2.a., 2.b.i., and 2.b.ii., considered in this case.

2. Checks rendered to pay penalties imposed by this Order shall be made out to "TCEQ." Administrative penalty payments shall be sent with the notation "Re: Star Food Mart 1, TCEQ Docket No. 2012-2570-PST-E" to:

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

3. The payment of the administrative penalty and the performance of all corrective action listed herein will completely resolve the violations set forth by this Order. However, the Commission shall not be constrained in any manner from requiring corrective action or penalties for other violations that are not raised here.
4. Immediately upon the effective date of this Order, Respondent shall begin maintaining all UST records and ensure that they are made available for inspection upon request by agency personnel, in accordance with 30 Texas Administrative Code § 334.10.
5. Within 30 days of the effective date of this Order, Respondent shall implement a release detection method for all USTs at the Facility, in accordance with 30 Texas Administrative Code § 334.50.
6. Within 45 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provision Nos. 4 and 5. 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.

7. Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions 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:

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

8. The ED may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the ED determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. All other motions, requests for entry of specific findings of fact or conclusions of law, and any other requests for general or specific relief, if not expressly granted herein, are hereby denied.
10. The effective date of this Order is the date the Order is final. 30 Tex. Admin. Code § 80.273 and Tex. Gov't Code § 2001.144.
11. The Commission's Chief Clerk shall forward a copy of this Order to Respondent.
12. If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any provision shall not affect the validity of the remaining portions of this Order.

ISSUED:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

**Bryan W. Shaw, Ph.D., P.E., Chairman
For the Commission**