

Order Type:

Default Order (SOAH preliminary hearing)

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

1002 United States Highway 77, Bishop, Nueces County

Type of Operation:

underground storage tank ("UST") system and a 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: December 17, 2021

Comments Received: None

Penalty Information

Total Penalty Assessed: \$7,500

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$7,500

Compliance History Classifications:

Person/CN - Satisfactory
Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 7, 2019; January 7, 2020

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

Date(s) of NOE(s): January 17, 2020

Violation Information

1. Failed to ensure that the emergency shutoff valves (also called shear or impact valves) are securely anchored at the base of all dispensers [30 TEX. ADMIN. CODE 334.45(c)(3)(A)].
2. Failed to operate, maintain, and manage a UST system in accordance with accepted industry practices and in a manner that will prevent releases of regulated substances [30 TEX. ADMIN. CODE §§ 334.42(a) and 334.48(a) and (b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order, including payment of the administrative penalty in full.
2. Immediately cease accepting any additional fuel until the system is repaired.
3. Within 10 days, Respondent shall send the Facility's UST fuel delivery certificate to TCEQ.
4. Within 15 days, Respondent shall submit written certification to demonstrate compliance with Technical Requirements Nos. 2 and 3.
5. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
6. Within 15 days after obtaining a new fuel delivery certificate, submit written certification to demonstrate compliance with Technical Requirement No. 5.
7. Within 30 days of the effective date of this Order:
 - a. Securely anchor the emergency shutoff valves (also called shear or impact valves) at the base, under dispenser Nos. 12 and 14;
 - b. Repair the monitoring well and unleaded tank probe lids to ensure a proper covering;
 - c. Repair the unleaded and diesel dispenser nozzles at the hose-to-dispenser nozzle connection at dispenser no. 12;
 - d. Repair the damage to Dispenser No. 12 sump; and
 - e. Repair the damage to the super unleaded spill bucket.
8. Within 45 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 7.a. through 7.e.

Litigation Information

Date Petition(s) Filed: December 22, 2020
Date Green Card(s) Signed: unclaimed
Date Answer(s) Filed: February 24, 2021
SOAH Referral Date: May 11, 2021
Hearing Date(s):
Preliminary hearing: July 29, 2021 (defaulted)

Contact Information

TCEQ Attorneys: Megan Grace, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Courtney Atkins, Enforcement, (512) 239-1118
TCEQ Regional Contact: Tim Perdue, Corpus Christi Regional Office, (361) 881-6900
Respondent Contact: Agha Ali, Director, JANOOB, INC., 25215 Birchwood Springs Avenue,
Porter, Texas 77365
Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	20-Jan-2020	Screening	10-Feb-2020	EPA Due	
	PCW	20-Oct-2020				

RESPONDENT/FACILITY INFORMATION	
Respondent	JANOOB, INC. dba Snappy Foods 17
Reg. Ent. Ref. No.	RN105683817
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	59301	No. of Violations	2
Docket No.	2020-0654-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Courtney Atkins
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
---	-------------------	---------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	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	\$215
Estimated Cost of Compliance	\$1,800

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,500
-----------------------------	-----------------------	---------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

Final Penalty Amount	\$7,500
-----------------------------	---------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,500
-----------------------------------	-------------------------------	---------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	------	-----------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$7,500
------------------------	---------

Screening Date 10-Feb-2020

Docket No. 2020-0654-PST-E

PCW

Respondent JANOOB, INC. dba Snappy Foods 17

Policy Revision 4 (April 2014)

Case ID No. 59301

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105683817

Media Petroleum Storage Tank

Enf. Coordinator Courtney Atkins

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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 judgments 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%
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 10-Feb-2020 **Docket No.** 2020-0654-PST-E **PCW**
Respondent JANOOB, INC. dba Snappy Foods 17 *Policy Revision 4 (April 2014)*
Case ID No. 59301 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN105683817
Media Petroleum Storage Tank
Enf. Coordinator Courtney Atkins

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 334.45(c)(3)(A)

Violation Description

Failed to ensure that the emergency shutoff valves (also called shear or impact valves) are securely anchored at the base of all dispensers. Specifically, the diesel shear valve located under dispenser Nos. 12 and 14 are not securely anchored.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended from the January 7, 2020 record review date to the February 10, 2020 screening date.

Good Faith Efforts to Comply Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	<input type="text"/>

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent JANOOB, INC. dba Snappy Foods 17
Case ID No. 59301
Reg. Ent. Reference No. RN105683817
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment	\$100	7-Mar-2019	16-Nov-2020	1.70	\$1	\$11	\$12
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
 Estimated delayed cost to properly anchor the shear valve under the dispenser. The Date Required is the initial investigation date and the Final Date is the estimated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 (Empty box for notes)

Approx. Cost of Compliance \$100

TOTAL \$12

Screening Date 10-Feb-2020
Respondent JANOOB, INC. dba Snappy Foods 17
Case ID No. 59301
Reg. Ent. Reference No. RN105683817
Media Petroleum Storage Tank
Enf. Coordinator Courtney Atkins

Docket No. 2020-0654-PST-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 334.42(a) and 334.48(a) and (b)

Violation Description

Failed to operate, maintain, and manage an Underground Storage Tank (UST) systems in accordance with accepted industry practices and in a manner that will prevent releases of regulated substances. Specifically, the monitoring well and unleaded tank lids are broken and no longer provide a proper covering, the unleaded and diesel dispenser nozzles at Dispenser No. 12 are leaking at the hose-to-dispenser nozzle connection or at the nozzles themselves, the Dispenser No. 12 sump is damaged (cracked and torn), and the super unleaded spill bucket is damaged and no longer liquid tight.

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 that 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 1 34 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the January, 7 2020 record review date to the February 10, 2020 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	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 \$203

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent JANOOB, INC. dba Snappy Foods 17
Case ID No. 59301
Reg. Ent. Reference No. RN105683817
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

Delayed Costs

Equipment	\$1,700	7-Mar-2019	16-Nov-2020	1.70	\$10	\$193	\$203
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
 Estimated delayed cost to repair the monitoring well and tank lids, dispenser nozzles, connections, sumps, and spill buckets. The Date Required is the initial investigation date and the Final Date is the estimated compliance date.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 (This area is currently blank for input.)

Approx. Cost of Compliance \$1,700

TOTAL \$203

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

Compliance History Report for CN603931932, RN105683817, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN603931932, JANOBOB, INC. **Classification:** SATISFACTORY **Rating:** 0.46
Regulated Entity: RN105683817, SNAPPY FOODS 17 **Classification:** SATISFACTORY **Rating:** 2.33
Complexity Points: 2 **Repeat Violator:** NO
CH Group: 14 - Other
Location: 1002 US Highway 77, in Bishop, county of Nueces, Texas
TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 79338

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: April 27, 2020

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 27, 2015 to April 27, 2020

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

Name: Tyler Smith

Phone: (512) 239-3421

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

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.):

Item 1	August 04, 2016	(1345556)
Item 2	April 16, 2019	(1555656)

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
JANOOB, INC. DBA
SNAPPY FOODS 17;
RN105683817**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2020-0654-PST-E

On _____, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is JANOOB, INC. dba Snappy Foods 17 (“Respondent”).

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank (“UST”) system and a convenience store with retail sales of gasoline located at 1002 US Highway 77 in Bishop, Nueces County, Texas (the “Facility”). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on March 7, 2019, and a record review conducted on January 7, 2020, an investigator documented that Respondent:
 - a. Failed to ensure that the emergency shutoff valves (also called shear or impact valves) are securely anchored at the base of all dispensers. Specifically, the diesel shear valves located under dispenser Nos. 12 and 14 are not securely anchored; and
 - b. Failed to operate, maintain, and manage a UST system in accordance with accepted industry practices and in a manner that will prevent releases of regulated substances. Specifically, the monitoring well and unleaded tank lids are broken and no longer provide a proper covering, the unleaded and diesel dispenser nozzles at Dispenser No. 12 are leaking at the hose-to-dispenser nozzle connection or at the nozzles themselves, the Dispenser No. 12 sump is damaged (cracked and torn), and the super unleaded spill bucket is damaged and no longer liquid tight.
3. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of JANOOB, INC. dba Snappy Foods 17” (the “EDPRP”) in the TCEQ Chief Clerk’s office on December 22, 2020.
4. Respondent filed an answer requesting a hearing on February 24, 2021, and the matter was referred to the State Office of Administrative Hearings (“SOAH”) on May 11, 2021.

5. On June 28, 2021, the TCEQ Chief Clerk mailed notice of the preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.
6. On July 29, 2021, the Administrative Law Judge (“ALJ”) convened the preliminary hearing. Respondent failed to appear, and the Executive Director requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be dismissed from the SOAH Docket and remanded to the Executive Director so that a Default Order may be entered by the Commission.
7. On August 13, 2021, the ALJ entered a finding that Respondent was served with proper notice of the hearing and remanded the matter to the Executive Director by SOAH Order No. 2 so that TCEQ may dispose of this case on a default basis.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to ensure that the emergency shutoff valves (also called shear or impact valves) are securely anchored at the base of all dispensers, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to operate, maintain, and manage a UST system in accordance with accepted industry practices and in a manner that will prevent releases of regulated substances, in violation of 30 TEX. ADMIN. CODE §§ 334.42(a) and 334.48(a) and (b).
4. As evidenced by Finding of Fact No. 4, Respondent filed an answer requesting a hearing as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105, and the matter was referred to SOAH pursuant to 1 TEX. ADMIN. CODE §§ 155.53(b) and 155.101(b) and 30 TEX. ADMIN. CODE § 70.109.
5. As evidenced by Finding of Fact No. 5, Respondent was provided proper notice of the preliminary hearing in accordance with TEX. GOV’T CODE §§ 2001.051(1) and 2001.052, TEX. WATER CODE § 7.058, 1 TEX. ADMIN. CODE §§ 155.105(a) and (c)(3), 155.401 and 155.501, and 30 TEX. ADMIN. CODE §§ 1.11, 1.12, 39.23, 39.25, 39.405, 39.413, 39.423, 39.425 and 80.6.
6. As evidenced by Findings of Fact Nos. 6 and 7, Respondent failed to appear for the preliminary hearing, and pursuant to TEX. GOV’T CODE § 2001.056(4) and 1 TEX. ADMIN. CODE § 155.501(d), the ALJ dismissed the case from the SOAH docket so that the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106(b).
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ’s jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility’s UST fuel delivery certificate if the Commission finds that good cause exists.

11. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 through 7, and Conclusions of Law Nos. 2 through 6.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
2. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: JANOOB, INC. dba Snappy Foods 17; Docket No. 2020-0654-PST-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order, including payment of the administrative penalty in full.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
6. Within 15 days after the effective date of this Order, Respondent shall submit written certification in accordance with Ordering Provision No. 7.e., below, to demonstrate compliance with Ordering Provisions Nos. 4 and 5.
7. Respondent shall undertake the following technical requirements:
 - a. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
 - b. Within 15 days after obtaining a new fuel delivery certificate pursuant to Ordering Provision No. 4, submit written certification in accordance with Ordering Provision No. 7.e. below to demonstrate compliance with Ordering Provision No. 7.a.
 - c. Within 30 days after the effective date of this Order:

- i. Securely anchor the emergency shutoff valves (also called shear or impact valves) at the base, under dispenser Nos. 12 and 14, in accordance with 30 TEX. ADMIN. CODE § 334.45;
 - ii. Repair the monitoring well and unleaded tank probe lids to ensure a proper covering, in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - iii. Repair the unleaded and diesel dispenser nozzles at the hose-to-dispenser nozzle connection at dispenser no. 12, in accordance with 30 TEX. ADMIN. CODE §§ 334.42 and 334.48;
 - iv. Repair the damage to Dispenser No. 12 sump, in accordance with 30 TEX. ADMIN. CODE §§ 334.42 and 334.48; and
 - v. Repair the damage to the super unleaded spill bucket, in accordance with 30 TEX. ADMIN. CODE §§ 334.42 and 334.48.
- d. Within 45 days after the effective date of this Order, submit written certification in accordance with Ordering Provision No. 7.e. below to demonstrate compliance with Ordering Provisions Nos. 7.c.i. through 7.c.v.
 - e. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, 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.”

The written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

and:

Waste Section Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5839

8. All relief not expressly granted in this Order is denied.
9. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
10. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Order Compliance Team at the address listed above.

11. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.
12. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
13. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
14. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
15. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF MEGAN GRACE

"On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of JANOOB, INC. dba Snappy Foods 17" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on December 22, 2020.

Respondent filed an answer requesting a hearing on February 24, 2021, and the matter was referred to the State Office of Administrative Hearings ("SOAH") on May 11, 2021. On June 28, 2021, the TCEQ Chief Clerk mailed notice of the preliminary hearing via certified mail, return receipt requested, and via first class mail, postage prepaid to Respondent.

Respondent failed to appear at the hearing on July 29, 2021. At that hearing, I requested that the ALJ enter a finding that Respondent was served with proper notice of the hearing and the matter be remanded to the Executive Director pursuant to 1 TEX. ADMIN. CODE § 155.501(d), which gives an ALJ the authority to remand the case back to the TCEQ for informal disposition on a default basis in accordance with TEX. GOV'T CODE § 2001.056.

The ALJ remanded the matter to the Executive Director by SOAH Order No. 2, issued on August 13, 2021, so that TCEQ may dispose of this case on a default basis."

"My name is Megan Grace, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,
State of Texas,

on the 24th day of November, 2021

A handwritten signature in black ink, appearing to read "Megan J. Grace".

Declarant