

**RESPONDENT'S NAME: TRANG DAI NGUYEN DBA T & T GROCERY
AND TUNG AN PHAM DBA T & T GROCERY
DOCKET NO.: 2004-1771-PST-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 2, 2003 October 21, 2004</p> <p>Date(s) of NOV and NOE Relating to this Case: June 24, 2003 (NOV) October 21, 2004 (NOE)</p> <p>Background Facts: The EDPRP was filed on January 19, 2006. The signed Agreed Order and check were received in May 2007. The proposed order includes one penalty assessed jointly because the Respondents are co-owners.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST</p> <p>Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of two petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p>Total Assessed: \$2,100</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$200/\$1,900</p> <p>The Respondents have paid \$200 of the administrative penalty. The remaining amount of \$1,900 shall be payable in 19 monthly payments of \$100 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Within 30 days, the Respondents shall submit written notarized certification demonstrating current financial assurance for their petroleum USTs.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 17, 2004

DATES
 PCW Screening Priority Due EPA Due

RESPONDENT/FACILITY INFORMATION
 Respondent
 Reg. Ent. Ref. No.
 Additional ID No(s)
 Facility/Site Region Major/Minor Source

CASE INFORMATION
 Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Case Priority Enf. Coordinator
 Media Program(s) EC's Team
 Multi-Media
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5% Enhancement Subtotals 2, 3, & 7

Notes

Culpability 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<i>(mark with a small x)</i>

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$1,365"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,300"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 04-Nov-2004	Docket No. 2004-1771-PST-E	PCW
Respondent Trang Dai Nguyen dba T & T Grocery		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 21552		<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No. RN102250800		
Additional ID No(s). Petroleum Storage Tank Facility ID No. 37155		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Lori Thompson		
Site Address	3711 Farm-to-Market Road 359, Pattison, Waller County, Texas	

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	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</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 04-Nov-2004 **Docket No.** 2004-1771-PST-E **PCW**
Respondent Trang Dai Nguyen dba T & T Grocery *Policy Revision 2 (September 2002)*
Case ID No. 21552 *PCW Revision May 17, 2004*
Reg. Ent. Reference No. RN102250800
Additional ID No(s). Petroleum Storage Tank Facility ID No. 37155
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Lori Thompson
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

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 Trang Dai Nguyen dba T & T Grocery
 Case ID No. 21552
 Reg. Ent. Reference No. RN102250800
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 37155
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,300	02-Apr-2002	02-Apr-2003	1.0	\$65	\$1,300	\$1,365
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for two petroleum USTs (\$650 per tank) for one year prior to the April 2, 2003 request for financial assurance documentation.

Approx. Cost of Compliance

TOTAL

Sites Outside of Texas

N/A



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 17, 2004

DATES
 PCW Screening Priority Due EPA Due

RESPONDENT/FACILITY INFORMATION
 Respondent
 Reg. Ent. Ref. No.
 Additional ID No(s).
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No.	<input type="text" value="21552"/>	No. of Violations	<input type="text" value="1"/>
Docket No.	<input type="text" value="2004-1771-PST-E"/>	Order Type	<input type="text" value="1660 without deferral"/> <input type="checkbox"/>
Case Priority	<input type="text" value="3"/> <input type="checkbox"/>	Enf. Coordinator	<input type="text" value="Lori Thompson"/> <input type="checkbox"/>
Media Program(s)	<input type="text" value="Petroleum Storage Tank"/> <input type="checkbox"/>	EC's Team	<input type="text" value="Enforcement Team 1"/> <input type="checkbox"/>
Multi-Media	<input type="text"/>		
Admin. Penalty \$	Limit Minimum <input type="text" value="\$0"/>	Maximum	<input type="text" value="\$10,000"/>

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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Compliance History 5% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	<i>(mark with a small x)</i>

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$1,365"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,300"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

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Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 04-Nov-2004	Docket No. 2004-1771-PST-E	PCW
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Case ID No. 21552		<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No. RN102250800		
Additional ID No(s). Petroleum Storage Tank Facility ID No. 37155		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Lori Thompson		
Site Address	3711 Farm-to-Market Road 359, Pattison, Waller County, Texas	

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

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	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</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date 04-Nov-2004 **Docket No.** 2004-1771-PST-E **PCW**
Respondent Tung An Pham dba T & T Grocery *Policy Revision 2 (September 2002)*
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Media [Statute] Petroleum Storage Tank
Enf. Coordinator Lori Thompson
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

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 Tung An Pham dba T & T Grocery
 Case ID No. 21552
 Reg. Ent. Reference No. RN102250800
 Additional ID No(s) Petroleum Storage Tank Facility ID No. 37155
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

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Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,300	02-Apr-2002	02-Apr-2003	1.0	\$65	\$1,300	\$1,365
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for two petroleum USTs (\$650 per tank) for one year prior to the April 2, 2003 request for financial assurance documentation.

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN602744039 TUNG AN PHAM	Classification: AVERAGE	Rating: 1.500
Regulated Entity:	RN102250800 T & T GROCERY	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	37155
Location:	3711 FM 359, PATTISON, TX, 77466		Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	November 23, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 23, 1999 to November 23, 2004		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Brent Hurta Phone: 512-239-6589

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |
| 6. Comments: | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 06/24/2003 (277443)
 - 2 10/21/2004 (290771)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/24/2003 (277443)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to provide acceptable financial assurance
- 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
TRANG DAI NGUYEN DBA
T & T GROCERY AND
TUNG AN PHAM DBA
T & T GROCERY;
RN102250800

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

AGREED ORDER DOCKET NO. 2004-1771-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Trang Dai Nguyen dba T & T Grocery and Tung An Pham dba T&T Grocery ("Nguyen and Pham ") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Nguyen and Pham appear before the Commission and together stipulate that:

1. Nguyen and Pham own and operate a grocery store with retail sales of gasoline at 3711 Farm-to-Market Road 359 in Pattison, Waller County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Nguyen and Pham agree that the Commission has jurisdiction to enter this Agreed Order, and that Nguyen and Pham are subject to the Commission's jurisdiction.
4. Nguyen and Pham received notice of the violations alleged in Section II ("Allegations") on or about June 24, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Nguyen and Pham of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of two thousand one hundred dollars (\$2,100.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nguyen and Pham have paid two hundred dollars (\$200.00) of the administrative penalty. The remaining amount of one thousand nine hundred dollars (\$1,900.00) of the administrative penalty shall be payable in nineteen (19) monthly payments of one hundred dollars (\$100.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Nguyen and Pham fail to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Nguyen and Pham to meet the payment schedule of this Agreed Order constitutes the failure by Nguyen and Pham to timely and satisfactorily comply with all of the terms of this Agreed Order.
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 of the TCEQ and Nguyen and Pham has agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Nguyen and Pham have paid all underground storage tank fees due on their TCEQ Account No. 0058285U.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Nguyen and Pham have not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Nguyen and Pham are alleged to have violated 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of two petroleum USTs, as documented in a record review on April 2, 2003.

III. DENIALS

Nguyen and Pham generally deny each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Nguyen and Pham pay an administrative penalty as set forth in Section I, Paragraph six above. The payment of this administrative penalty and Nguyen and Pham's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Trang Dai Nguyen dba T&T Grocery and Tung An Pham dba T&T Grocery; Docket No: 2004-1771-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

2. Nguyen and Pham shall undertake the following technical requirement. Within 30 days after the effective date of this Agreed Order, Nguyen and Pham shall submit written certification demonstrating current financial assurance for their petroleum USTs, as required by 30 TEX. ADMIN. CODE § 37.815(a) and (b) to:

Mr. Rob Norris, Senior Financial Analyst
Financial Assurance, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

With a copy to:

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

The certification shall demonstrate compliance with Ordering Provision 2. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

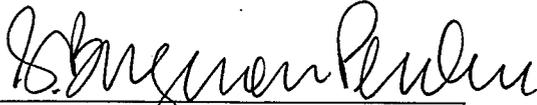
3. The provisions of this Agreed Order shall apply to and be binding upon Nguyen and Pham. Nguyen and Pham are ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Nguyen and Pham fail to comply with 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, Nguyen and Pham's failure to comply is not a violation of this Agreed Order. Nguyen and Pham shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Nguyen and Pham shall notify the Executive Director within seven days after Nguyen and Pham become 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 Nguyen and Pham shall be made in writing to the Executive Director. Extensions are not effective until Nguyen and Pham receive 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 Nguyen and Pham 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Nguyen and Pham or three days after the date on which the Commission mails notice of the Order to Nguyen and Pham, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/9/07

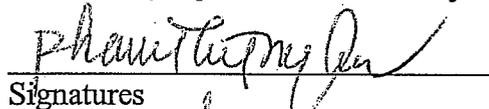
Date

We, the undersigned, have read and understand the attached Agreed Order. We represent that we are authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below our signatures, and we do agree to the terms and conditions specified therein. We further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

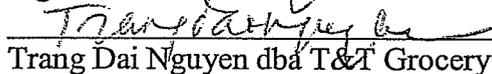
We also understand that our failure to comply with the Ordering Provisions, if any, in this order and/or our failure to timely pay the penalty amount, may result in:

- A negative impact on our compliance history;
- Greater scrutiny of any permit applications submitted by us;
- 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 against us;
- Automatic referral to the Attorney General's Office of any future enforcement actions against us; and
- TCEQ seeking other relief as authorized by law.

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



Signatures


Trang Dai Nguyen dba T&T Grocery

Tung An Pham dba T&T Grocery

4/10/2007

Date

Vice president

Title