

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2004-1634-PST-E TCEQ ID: RN102042710 CASE NO.: 20762
RESPONDENT NAME: ALI SAMNANI DBA CITY STAR TEXACO

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 5400 Brentwood Stair Road, Fort Worth, Tarrant County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The Texas Register comment period expired on June 25, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 149, (512) 239-0789 TCEQ Regional Contact: Mr. Sid Slocum, DFW Regional Office, MC R-4, (817) 588-5901 Respondent: Mr. Ali Samnani, Owner, City Star Texaco, 5400 Brentwood Stair Road, Fort Worth, Texas 76112 Respondent's Attorney: Not represented by counsel.</p>		

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 Investigations Relating to this Case: February 25, 2003 and August 9, 2004</p> <p>Date of NOV/NOE Relating to this Case: February 25, 2003 (NOV) December 22, 2004 (NOE)</p> <p>Background Facts: The EDPRP was filed on August 23, 2005 and the Respondent was served on August 27, 2005. The Respondent never filed an Answer. The Respondent never returned telephone calls regarding the case; so this Default Order was filed.</p> <p>PST:</p> <p>Failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p>Total Assessed: \$3,330</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$3,330</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. The Respondent's UST delivery certificate is revoked immediately. 2. Within 10 days, send its UST delivery certificate to the TCEQ. 3. Within 30 days, submit documentation that demonstrates 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 petroleum UST's has been obtained. 4. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision May 17, 2004

DATES	PCW 11-Oct-2004	Screening 10-Oct-2004	Priority Due 08-Jan-2005	EPA Due
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RESPONDENT/FACILITY INFORMATION	
Respondent	Ali Samnani dba City Star Texaco
Reg. Ent. Ref. No.	RN102042710
Additional ID No(s)	PST Facility ID No. 13589
Facility/Site Region	4-Dallas/Fort Worth <input type="checkbox"/> Major/Minor Source <input type="checkbox"/> Minor Source <input type="checkbox"/>

CASE INFORMATION			
Enf./Case ID No.	20762	No. of Violations	1
Docket No.	2004-1634-PST-E	Order Type	1660 without deferral <input type="checkbox"/>
Case Priority	3 <input type="checkbox"/>	Enf. Coordinator	Mike Limos
Media Program(s)	Petroleum Storage Tank <input type="checkbox"/>	EC's Team	Enforcement Team 6 <input type="checkbox"/>
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	11% Enhancement	Subtotal 2, 3, & 7	\$330
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Notes: The Respondent received an NOV dated 2/25/03 for same violations and three NOVs dated 11/22/00, 6/19/03 and 6/23/04 for different violations.

Culpability	No <input type="checkbox"/>	0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet culpability requirements.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The Respondent is not yet in compliance.

Economic Benefit	0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,048	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,950	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,330
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OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** **\$0**

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

Notes:

Final Penalty Amount	\$3,330
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STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$3,330**

DEFERRAL **Reduction** **Adjustment** **\$0**

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

Notes: No deferral is offered because the Respondent has received an NOV for the same or similar violations within the past 5 years.

PAYABLE PENALTY	\$3,330
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Screening Date	10-Oct-2004	Docket No.	2004-1634-PST-E	PCW
Respondent	Ali Samnani dba City Star Texaco			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	20762			<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No.	RN102042710			
Additional ID No(s)	PST Facility ID No. 13589			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Mike Limos			
Site Address	5400 Brentwood Stair Road, Fort Worth, Tarrant County			

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	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	3	6%
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%
Other	<i>Please Enter Yes or No</i>		
	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) 11%

>> **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

The Respondent received an NOV dated 2/25/03 for same violations and three NOVs dated 11/22/00, 6/19/03 and 6/23/04 for different violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 11%

Screening Date	10-Oct-2004	Docket No.	2004-1634-PST-E	PCW
Respondent	Ali Samnani dba City Star Texaco			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	20762			<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No.	RN102042710			
Additional ID No(s)	PST Facility ID No. 13589			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Mike Limos			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)			
Secondary Rule Cite(s)				
Violation Description	Failure 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 petroleum USTs.			

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**

		Major	Moderate	Minor	
	Falsification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	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="checkbox"/>

Violation Base Penalty

Three (3) single events are recommended (one event per tank) based upon the record review conducted on August 9, 2004.

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: Ali Samnani dba City Star Texaco
 Case ID No: 20762
 Reg. Ent. Reference No: RN102042710
 Additional ID No(s): PST Facility ID No. 13589
 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
No commas or \$							

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]	\$1,950	07-Nov-2001	07-Nov-2002	1.0	\$98	\$1,950	\$2,048
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 three petroleum USTs for the 12 months prior to the 11/7/02 record review

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN602558728 SAMNANI, ALI	Classification: AVERAGE	Rating: 3.560
Regulated Entity:	RN102042710 CITY STAR TEXACO	Classification: AVERAGE	Site Rating: 3.56
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	.REGISTRATION	13589
Location:	5400 BRENTWOOD STAIR RD, FORT WORTH, TX, 76112	Rating Date: 9/1/04	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	October 11, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 11, 1999 to October 11, 2004		

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

Name: Mike Limos Phone: (512) 239-5839

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 |

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 01/10/2000 (42825)
- 2 07/28/2004 (284666)
- 3 08/29/2003 (152222)
- 4 11/23/1999 (117000)
- 5 06/23/2004 (274001)
- 6 06/19/2003 (112807)
- 7 02/25/2003 (275644)
- 8 09/08/2004 (288693)
- 9 07/10/2003 (114060)

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

Date: 06/19/2003 (112807)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(5)

Description: The owner or operator had not provided a copy of the full system test results to the local air regulatory authority within the 10-day limit.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: The facility did not have a copy of the 1/17/03 full system test results on-site.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: The facility did not have a copy of G-70-150 AE on-site for review.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.222(3)
 30 TAC Chapter 115, SubChapter C 115.242(4)
 Description: Gasoline leak at the coxial hose and nozzle connection on Dispenser #1.
 Date: 11/22/2000 (117000)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(J)
 Description: FAILURE TO COMPLY
 Date: 02/25/2003 (275644)

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
 Date: 06/23/2004 (274001)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)
 Description: Failure to maintain a record of daily inspections according to 115.244.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)
 Description: Failure to maintain proof of attendance and completion of training as specified in 115.248 and documentation of all Stage II training for each employee so long as employed.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.245(5)
 Description: Failure to submit the results of all tests required by 115.245 within 10 working days to the appropriate TCEQ regional office and any local air pollution control program with jurisdiction.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)
 Description: Failure to maintain a record of maintenance conducted on any part of the Stage II equipment.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
 Description: Failure to maintain a record of the results of testing conducted at the facility according to 115.245.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
 Description: Failure to maintain a copy of the CARB Executive Order for the Stage II vapor recovery system and any related componenets installed at the facility.

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 ALI SAMNANI
DBA CITY STAR TEXACO;
RN102042710

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER DOCKET NO. 2004-1634-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE § 7.054, and chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Ali Samnani dba City Star Texaco ("Samnani").

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

FINDINGS OF FACT

1. At the time of the violation, Samnani owns and operates a convenience store with retail sales of gasoline located at 5400 Brentwood Stair Road, Fort Worth, Tarrant County, Texas (the "Facility").
2. Samnani's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Samnani's USTs contained a regulated substance as defined in the rules of the Commission.
3. During a record review inspection conducted on August 9, 2004, TCEQ Financial Administration Staff documented that Samnani failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
4. Samnani received notice of the violations on or about December 22, 2004.

5. 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 Ali Samnani dba City Star Texaco (the "EDPRP") in the TCEQ Chief Clerk's office on August 23, 2005.
6. By letter dated August 23, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Samnani with notice of the EDPRP. According to the return receipt "green card", Samnani received notice of the EDPRP on or about August 27, 2005, as evidenced by the signature on the green card.
7. More than 20 days have elapsed since Samnani received notice of the EDPRP provided by the Executive Director. Samnani failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Samnani is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch.26, §§ 7.002 and 5.013, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Samnani failed to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Samnani with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Samnani has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Samnani and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Samnani for violations of the Texas Water Code within the

Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty and fees in the amount of three thousand three hundred thirty dollars (\$3,330.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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.
8. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the commission has authority to revoke Samnani's UST delivery certificate if the Commission finds that good cause exists.
9. Good cause for revocation of Samnani's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6, and 7, and Conclusions of Law Nos. 2, 3, and 4.

ORDERING PROVISIONS

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

1. Samnani is assessed an administrative penalty in the amount of three thousand three hundred thirty dollars (\$3,330.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Samnani's compliance with all the terms and conditions set forth in this Order completely resolve 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 other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Ali Samnani dba City Star Texaco; Docket No. 2004-1634-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. Samnani's UST delivery certificate is revoked immediately upon the effective date of this Order. Samnani may submit an application for a new delivery certificate only after Samnani has complied with all the requirements of this Order.
3. Within 10 days after the effective date of this Order, Samnani shall send his UST delivery certificate to :

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3097

4. Samnani shall undertake the following technical requirement:
 - a. Within 30 days after the effective date of the Commission Order, Samnani shall submit documentation that demonstrates 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 petroleum UST's has been obtained, in accordance with 30 TEX. ADMIN. CODE § 37.815(a) and (b), to:

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

With copies to the Order Compliance Team.

5. Samnani shall within forty-five (45) days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision 4. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations.

The certification shall be submitted to Order Compliance Team at the address listed above.

6. All relief not expressly granted in this Order is denied.
7. The provisions of this Order shall apply to and be binding upon Samnani.
8. If Samnani 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, Samnani's failure to comply is not a violation of this Order. Samnani shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Samnani shall notify the Executive Director within seven days after Samnani becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
9. 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 Samnani shall be made in writing to the Executive Director. Extensions are not effective until Samnani receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
10. 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 Samnani if the Executive Director determines that Samnani has not complied with one or more of the terms or conditions in this Order.
11. 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.
12. The Chief Clerk shall provide a copy of this 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

AFFIDAVIT OF REBECCA M. COMBS

STATE OF TEXAS §
 §
COUNTY OF Travis §

“My name is Rebecca M. Combs. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 Ali Samnani dba City Star Texaco’ (the “EDPRP”) was filed with the Office of the Chief Clerk on August 23, 2005.

The EDPRP was sent to Samnani at his last known address on August 23, 2005 by certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Samnani received notice of the EDPRP on or about August 27, 2005, as evidenced by the signature on the green card.

More than 20 days have elapsed since Samnani received notice of the EDPRP. Samnani failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.

Rebecca M. Combs
Rebecca M. Combs
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rebecca M. Combs, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 26th day of March, 2007.

Shannon Morris
Notary Signature

Notary Stamp

