

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2006-0061-PST-E TCEQ ID NOS.: 48994 AND RN102014404 CASE NO.: 28013
RESPONDENT NAME: ALIAHSAN NADIA ENTERPRISES, INC. DBA DIADEM FOOD MART**

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: 3911 Diadem Lane, Kirby, Bexar County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no previous complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Alfred Oloko, Litigation Division, MC R-12, (713) 422-8918; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Ms. Deana Holland, Enforcement Division, Section I, MC 219, (512) 239-2504
TCEQ Regional Contact: Mr. Henry Karnei, Jr., San Antonio Regional Office, MC R-13, (210) 403-4010
Respondent: Mr. Aslam Kurji, Secretary, Aliahsan Nadia Enterprises, Inc., 3911 Diadem Lane, Kirby, Texas 78219
Respondent's Attorney: Not represented by counsel.

RESPONDENT'S NAME: ALIAHSAN NADIA ENTERPRISES, INC. DBA DIADEM FOOD MART
DOCKET NO.: 2006-0061-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: November 10, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: January 3, 2006 (NOE)</p> <p>Background Facts: The EDPRP in this case was filed on May 31, 2006. Settlement negotiations were commenced after contact with the Respondent was established. The signed Agreed Order was received on October 26, 2006.</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>1) Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to monitor the piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. Specifically did not monitor the USTs for releases monthly and did not conduct monthly monitoring or annual piping tightness testing [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and 334.50(b)(2), and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>2) Failed to maintain all UST records at the Facility and make them available for inspection to Commission personnel upon request. Specifically, the corrosion protection and overall prevention records were not available [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>3) Failed to amend the registration within 30 days of any change to reflect the current status of the UST system. Specifically, did not update the registration to reflect the current release detection and overfill prevention information [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>	<p>Total Assessed: \$3,780</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$480/\$3,300 The Respondent has paid \$480 of the administrative penalty. The remaining amount of \$3,300 of the administrative penalty shall be payable in 11 monthly payments of \$300 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <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>Corrective Action(s) Taken</p> <p>The Respondent shall:</p> <p>1) Immediately begin maintaining all UST records at the Facility.</p> <p>2) Within 30 days:</p> <p>a) Install and implement a release detection method for all USTs at the Facility; and</p> <p>b) Submit an amended registration to indicate the current operational status of the UST system</p> <p>3) Within 45 days, submit written certification as described in Order and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with these Ordering Provisions.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

DATES	Assigned 09-Jan-2006	Screening 19-Jan-2006	EPA Due
	PCW 12-Apr-2006		

RESPONDENT/FACILITY INFORMATION	
Respondent	Aliahsan Nadia Enterprises, Inc. dba Diadem Food Mart
Reg. Ent. Ref. No.	RN102014404
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	28013	No. of Violations	3
Docket No.	2006-0061-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Deana Holland
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$	Limit Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,600
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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	5% Enhancement	Subtotals 2, 3, & 7	\$180
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Notes: Enhancement due to one NOV with same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: The respondent does not meet the culpability criteria.

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	\$68	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,700	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,780
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$3,780
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,780
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DEFERRAL	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: This is not an expedited case.

PAYABLE PENALTY	\$3,780
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Screening Date 19-Jan-2006

Docket No. 2006-0061-PST-E

PCW

Respondent Alihsan Nadia Enterprises, Inc. dba Diadem Food Mart

Policy Revision 2 (September 2002)

Case ID No. 28013

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102014404

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

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	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 (number of events)	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 due to one NOV with same or similar violations.

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

Screening Date	19-Jan-2006	Docket No.	2006-0061-PST-E	PCW
Respondent	Alihsan Nadia Enterprises, Inc. dba Diadem Food Mart		Policy Revision 2 (September 2002)	
Case ID No.	28013	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN102014404			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Deana Holland			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and 334.50(b)(2)			
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(a) and (c)(1)			
Violation Description	<p>The respondent failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the respondent did not monitor the USTs for releases monthly. In addition, the respondent failed to monitor the piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. Specifically, the respondent did not conduct monthly monitoring or annual piping tightness testing.</p>			
Base Penalty	\$10,000			

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent <input type="text" value="25%"/>
	Potential	X			

>> **Programmatic Matrix**

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

Matrix Notes: Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

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	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended based on the investigation date of November 10, 2005 and the screening date of January 19, 2006.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$61"/>	Violation Final Penalty Total <input type="text" value="\$2,625"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,625"/>	

Economic Benefit Worksheet

Respondent: Alihsan Nadia Enterprises, Inc. dba Diadem Food Mart
 Case ID No. 28013
 Reg. Ent. Reference No. RN102014404
 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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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)	\$1,500	10-Nov-2005	01-Sep-2006	0.8	\$61	n/a	\$61

Notes for DELAYED costs

Estimated cost for provide a method of release detection for the UST system. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

n/a

Approx. Cost of Compliance \$1,500

TOTAL \$61

Screening Date 19-Jan-2006

Docket No. 2006-0061-PST-E

PCW

Respondent Aliahsan Nadia Enterprises, Inc. dba Diadem Food Mart

Policy Revision 2 (September 2002)

Case ID No. 28013

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102014404

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Secondary Rule Cite(s)

Violation Description

Failure to maintain all UST records at the Facility and make available for inspection to Commission personnel upon request. Specifically, the corrosion protection and overfill prevention records were not available.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			Percent
Release		Major	Moderate	Minor	
OR	Actual				
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	Percent
Falsification				X	

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment -\$9,900

Base Penalty Subtotal \$100

Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$100

One single event is recommended based on the investigation date of November 10, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

Economic Benefit Worksheet

Respondent: Aliahsan Nadia Enterprises, Inc. dba Diadem Food Mart
 Case ID No. 28013
 Reg. Ent. Reference No. RN102014404
 Media [Statute] Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$100	10-Nov-2005	01-Aug-2006	0.7	\$4	n/a	\$4
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: The estimated cost to maintain required records. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: n/a

Approx. Cost of Compliance \$100

TOTAL \$4

Screening Date 19-Jan-2006 **Docket No.** 2006-0061-PST-E **PCW**
Respondent Alihsan Nadia Enterprises, Inc. dba Diadem Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 28013 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102014404
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Deana Holland
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
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

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: Aliahsan Nadia Enterprises, Inc. dba Diadem Food Mart
 Case ID No. 28013
 Reg. Ent. Reference No. RN102014404
 Media [Statute]: Petroleum Storage Tank
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$100	10-Nov-2005	01-Sep-2006	0.8	\$4	n/a	\$4

Notes for DELAYED costs: The estimated cost to amend or update the UST registration. The Date Required is the date of the investigation and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.0	\$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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: n/a

Approx. Cost of Compliance \$100

TOTAL \$4

Compliance History

Customer/Respondent/Owner-Operator:	CN602923450 Aliahsan Nadia Enterprises, Inc.	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN102014404 DIADEM FOOD MART	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	48994
Location:	3911 DIADEM LN, KIRBY, TX, 78219	Rating Date: 9/1/2005	Repeat Violator: NO
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	January 18, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 18, 2001 to January 18, 2006		

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

Name: Deana Holland Phone: 239-2504

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? | Yes |
| 3. If Yes, who is the current owner? | <u>Aliahsan Nadia Enterprises, Inc.</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Cinco J., Inc.</u>
<u>Texrell Inc DBA Diadem Food Mart</u> |
| 5. When did the change(s) in ownership occur? | <u>10/05/2005</u> |

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 01/04/2006 (406128)
 - 2 09/01/2004 (292510)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 08/30/2004 (292510)
 - Classification: Moderate
 - Self Report? NO
 - Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]
 - Description: Tank and product piping release detection, inventory control, and corrosion protection records were not available for review.
 - 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
ALIAHSAN NADIA
ENTERPRISES, INC. DBA
DIADEM FOOD MART,
TCEQ PST ID NO. 48994;
RN 102014404

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2006-0061-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 Aliahsan Nadia Enterprises, Inc. dba Diadem Food Mart ("Aliahsan Nadia Enterprises") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Aliahsan Nadia Enterprises appear before the Commission and together stipulate that:

1. Aliahsan Nadia Enterprises owns and operates a convenience store with retail sales of gasoline located at 3911 Diadem Lane, Kirby, Bexar 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 Aliahsan Nadia Enterprises agree that the Commission has jurisdiction to enter this Agreed Order, and that Aliahsan Nadia Enterprises is subject to the Commission's jurisdiction.
4. Aliahsan Nadia Enterprises received notice of the violations alleged in Section II ("Allegations") on or about January 8, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Aliahsan Nadia Enterprises of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of three thousand seven hundred eighty dollars (\$3,780.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Aliahsan Nadia Enterprises has paid four hundred eighty dollars (\$480.00) of the administrative penalty. The remaining amount of three thousand three hundred dollars (\$3,300.00) of the administrative penalty shall be payable in eleven monthly payments of three hundred dollars (\$300.00) each. The first 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. If Mr. Aliahsan Nadia Enterprises fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, 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 Aliahsan Nadia Enterprises to meet the payment schedule of this Agreed Order constitutes the failure by Aliahsan Nadia Enterprises to timely and satisfactorily comply with all 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 Aliahsan Nadia Enterprises have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Aliahsan Nadia Enterprises has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Aliahsan Nadia Enterprises is alleged to have violated:

1. 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and 334.50(b)(2), and TEX. WATER CODE § 26.3475(a) and (c)(1) by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) and by failing to monitor the

piping associated with the UST system in a manner designed to detect releases from any portion of the piping system as documented on November 10, 2005. Specifically, Aliahsan Nadia Enterprises did not monitor the USTs for releases monthly and did not conduct monthly monitoring or annual piping tightness testing.

2. 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain all UST records at the Facility and make them available for inspection to Commission personnel upon request as documented on November 10, 2005. Specifically, the corrosion protection and overfill prevention records were not available.
3. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to amend the registration within 30 days of any change to reflect the current status of the UST system as documented on November 10, 2005. Specifically, Aliahsan Nadia Enterprises did not update the registration to reflect the current release detection and overfill prevention information.

III. DENIALS

Aliahsan Nadia Enterprises generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Aliahsan Nadia Enterprises pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Aliahsan Nadia Enterprises' 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 or 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:Aliahsan Nadia Enterprises, Inc., Docket No. 2006-0016-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. Aliahsan Nadia Enterprises shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Aliahsan Nadia Enterprises shall begin maintaining all UST records at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.10

- b. Within 30 days after the effective date of this Agreed Order, Aliahsan Nadia Enterprises shall:
 - i. Install and implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - ii. Submit an amended registration to indicate the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Remediation Support Division, MC-138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 45 days after the effective date of this Agreed Order, Aliahsan Nadia Enterprises shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.ii.

The certification shall be notarized by a State of Texas Notary Public and include the following 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
Enforcement Division, MC-149 A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon Aliahsan Nadia Enterprises. Aliahsan Nadia Enterprises is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Aliahsan Nadia Enterprises fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Aliahsan Nadia Enterprises' failure to comply is not a violation of this Agreed Order. Aliahsan Nadia Enterprises shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Aliahsan Nadia Enterprises shall notify the Executive Director within seven days after Aliahsan Nadia Enterprises becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Aliahsan Nadia Enterprises shall be made in writing to the Executive Director. Extensions are not effective until Aliahsan Nadia Enterprises receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Aliahsan Nadia Enterprises 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 Aliahsan Nadia Enterprises, or three days after the date on which the Commission mails notice of the Order to Aliahsan

Nadia Enterprises, 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

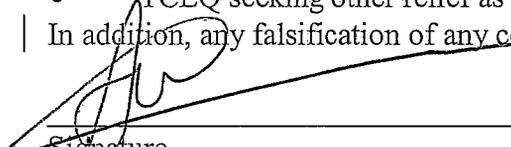
1/17/07
Date

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

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

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

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



Signature

Aslam Korji

Name (Printed or typed)

Authorized representative of

Aliahsan Nadia Enterprises, Inc.

10-25-06
Date

Secretary
Title