

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NUMBER: 2004-1805-PST-E TCEQ ID NO: RN101651263 ENF ID: 21657
RESPONDENT NAME: MOHAMMAD SALMAN DBA SHOP N SAVE

ORDER TYPE:

<input 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 checked="" 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	<input type="checkbox"/> DRY CLEANER REGISTRATION	

SITE WHERE VIOLATION(S) OCCURRED: 15395 Farm-to-Market Road 3083, Conroe, Montgomery 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.

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: Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Ms. Cheryl Thompson, Enforcement Division, Enforcement Division, Section II, MC R-4, (817) 588-5886
TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623
Respondent: Mr. Mohammad Salman, Owner, Shop N Save, 15395 Farm-to-Market Road 3083, Conroe, Texas 77302
Respondent's Attorney: Not represented by counsel.

**RESPONDENT'S NAME: MOHAMMAD SALMAN DBA SHOP N SAVE
DOCKET NO.: 2004-1805-PST-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <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(s) of Investigation(s) Relating to this Case: February 25, 2003, August 17, 2004 and November 17, 2004</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: February 25, 2003 (NOV) and October 28, 2004 (NOE)</p> <p>Background Facts: The EDPRP was filed and mailed to the Respondent on March 29, 2005. According to the return receipt "green card," the Respondent received notice of the EDPRP on April 11, 2005, as evidenced by the signature on the card. The Respondent failed to file an answer to the EDPRP. The EDFARP was filed and mailed to the respondent on September 25, 2006. According to the return receipt "green card," the Respondent received notice of the EDFARP on September 27, 2006, as evidenced by the signature on the card. The Respondent failed to file an answer to the EDFARP.</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 provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>2) Failed to pay UST fees for TCEQ Account Nos. 0059422U and 0053265U for the Fiscal Year 2005 and associated late fees and interest [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$4,200</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Due to General Revenue: \$4,200</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 proposed Order.</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 1, 2002</p>	<p>Corrective Action(s) Taken</p> <p>The Executive Director recognizes that on January 29, 2003, the Respondent obtained financial assurance.</p> <p>Ordering Provision(s)</p> <p>Within 30 days, submit payment for all outstanding fees, including any associated penalties and interest.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 17, 2004

DATES

PCW 17-Nov-2004 Screening 05-Nov-2004 Priority Due 03-Feb-2005 EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent: Mohammad Salman dba Shop N Save
 Reg. Ent. Ref. No.: RN101651263
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 27983
 Facility/Site Region: 12-Houston Major/Minor Source: Minor Source

CASE INFORMATION

Enf./Case ID No.: 21657 No. of Violations: 2
 Docket No.: 2004-1805-PST-E Order Type: 1660 without deferral
 Case Priority: 3 Enf. Coordinator: Brent Hurta
 Media Program(s): Petroleum Storage Tank EC's Team: Enforcement Team 1
 Multi-Media:
 Admin. Penalty \$ Limit Minimum: \$0 Maximum: \$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$4,000

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 \$200

Notes: Enhancement for one NOV with same or similar violations.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: Respondent did not meet culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: Respondent is not yet in compliance.

Economic Benefit 0% Enhancement* Subtotal 6 \$0

Total EB Amounts	\$2,730	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,600	

SUM OF SUBTOTALS 1-7 Final Subtotal \$4,200

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 \$4,200

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$4,200

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 given due to previous NOV dated February 25, 2003 for same or similar violations in the past five years.

PAYABLE PENALTY \$4,200

Screening Date	05-Nov-2004	Docket No.	2004-1805-PST-E	PCW
Respondent	Mohammad Salman dba Shop N Save	Policy Revision 2 (September 2002)		
Case ID No.	21657	PCW Revision May 17, 2004		
Reg. Ent. Reference No.	RN101651263			
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 27983			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brent Hurta			
Site Address	15395 Farm-to-Market Road 3083, Conroe, Montgomery County, Texas			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (<i>number of NOV's meeting criteria</i>)	1	5%
	Other written NOV's	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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

Screening Date	05-Nov-2004	Docket No.	2004-1805-PST-E	PCW
Respondent	Mohammad Salman dba Shop N Save			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	21657			<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No.	RN101651263			
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 27983			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brent Hurta			
Violation Number	<input type="text" value="1"/>			
Primary Rule Cite(s)	<input type="text" value="30 TAC § 37.815(a) and (b)"/>			
Secondary Rule Cite(s)	<input type="text"/>			
Violation Description	<input type="text" value="Failure to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs."/>			
		Base Penalty	<input type="text" value="\$10,000"/>	

>> **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="text"/>	<input type="text"/>	<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: Mohammad Salman dba Shop N Save
 Case ID No. 21657
 Reg. Ent. Reference No. RN101651263
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 27983
 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)				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]	\$2,600	07-Nov-2001	07-Nov-2002	1.0	\$130	\$2,600	\$2,730
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 four petroleum USTs (\$650 per tank) for one year prior to the November 7, 2002 request for financial assurance documentation.

Approx. Cost of Compliance \$2,600

TOTAL \$2,730

Screening Date	05-Nov-2004	Docket No.	2004-1805-PST-E	PCW
Respondent	Mohammad Salman dba Shop N Save	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	21657	<i>PCW Revision May 17, 2004</i>		
Reg. Ent. Reference No.	RN101651263			
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 27983			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brent Hurta			
Violation Number	<input type="text" value="2"/>			
Primary Rule Cite(s)	<input type="text" value="30 TAC § 334.22(a)"/>			
Secondary Rule Cite(s)	<input type="text" value="TWC § 5.702"/>			
Violation Description	<input type="text" value="Failure to pay Underground Storage Tank fees for TCEQ Account Nos. 0053265U and 0059422U for Fiscal Year 2005."/>			
Base Penalty				<input type="text" value="\$10,000"/>

>> **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"/>	<input type="text"/>

>> **Programmatic Matrix**

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

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 type="text"/>

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: Mohammad Salman dba Shop N Save
Case ID No.: 21657
Reg. Ent. Reference No.: RN101651263
Additional ID No(s): Petroleum Storage Tank Facility ID No. 27983
Media [Statute]: Petroleum Storage Tank
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)				0.0	\$0	n/a	\$0
Notes for DELAYED costs				N/A			

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 \$0

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN601104730 SALMAN, MOHAMMAD	Classification: AVERAGE	Rating: 2.540
Regulated Entity:	RN101651263 SHOP N SAVE	Classification: AVERAGE	Site Rating: 0.75
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1700368
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	27983
Location:	15395 FM 3083 RD, CONROE, TX, 77302	Rating Date: 9/1/04 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	November 04, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 04, 1999 to November 04, 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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</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 06/26/2003 (62593)
- 2 10/28/2004 (290952)
- 3 11/10/2003 (251041)
- 4 02/25/2003 (275509)
- 5 09/28/2004 (334457)

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

N/A

Date: 02/25/2003 (275509)

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
MOHAMMAD SALMAN
DBA SHOP N SAVE
RN101651263

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§
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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2004-1805-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 chs. 5, 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Mohammad Salman dba Shop N Save ("Mr. Salman").

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

FINDINGS OF FACT

1. Mr. Salman owns and operates a convenience store with retail sales of gasoline at 15395 Farm-to-Market Road 3083 in Conroe, Montgomery County, Texas (the "Facility").
2. Mr. Salman's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Salman's USTs contain a regulated substance as defined in the rules of the Commission.
3. During record reviews conducted on August 17, 2004 and November 17, 2004, a TCEQ Central Office staff documented that Mr. Salman violated the following requirements:
 - a. Failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs.
 - b. Failed to pay UST fees for TCEQ Account Nos. 0059422U and 0053265U for the Fiscal Year 2005 and associated late fees and interest.

4. Mr. Salman received notice of the violations alleged in Section II ("Allegations") on or about November 2, 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 Mohammad Salman dba Shop N Save" (the "EDPRP") in the TCEQ Chief Clerk's office on March 29, 2005.
6. By letter dated March 29, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Salman with notice of the EDPRP. According to the return receipt "green card," Mr. Salman received notice of the EDPRP on April 11, 2005, as evidenced by the signature on the card.
7. The Executive Director filed the "Executive Director's First Amended 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 Mohammad Salman dba Shop N Save" (the "EDFARP") in the TCEQ Chief Clerk's office on September 25, 2006.
8. By letter dated September 25, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Salman with notice of the EDFARP. According to the return receipt "green card," Mr. Salman received notice of the EDFARP on September 27, 2006, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Mr. Salman received notice of the EDPRP and the EDFARP, provided by the Executive Director. Mr. Salman failed to file an answer to the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
10. The Executive Director recognizes that on January 29, 2003, Mr. Salman obtained financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operating of the petroleum USTs.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Salman is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7 and 26, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3.a., Mr. Salman failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases 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 No. 3.b., Mr. Salman failed to pay UST fees for TCEQ Account Nos. 0059422U and 0053265U for the Fiscal Year 2005 and associated late fees and interest, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702.
4. As evidenced by Finding of Fact Nos. 5, 6, 7 and 8, the Executive Director has timely served Mr. Salman with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 9, Mr. Salman has failed to file a timely answer to the EDPRP or the EDFARP, 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 Mr. Salman and assess the penalty recommended by the Executive Director.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Salman for violations of the Texas Water Code and the Texas Health and Safety 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.
7. An administrative penalty in the amount of four thousand two hundred dollars (\$4,200) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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.

ORDERING PROVISIONS

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

1. Mr. Salman is assessed an administrative penalty in the amount of four thousand two hundred dollars (\$4,200) for violations of TEX. WATER CODE chs. 5, 7 and 26, and rules of the TCEQ. The payment of this administrative penalty and Mr. Salman'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: Mohammad Salman dba Shop N Save ; Docket No. 2004-1805-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. The Executive Director recommends that within 30 days after the effective date of the Commission Order, Mr. Salman shall submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Mohammad Salman dba Shop N Save, Financial Administration Account Nos. 0059422U and 0053265U", 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

with a copy to:

Work Leader
Team V, Section III
Enforcement Division, MC 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Salman. Mr. Salman is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

5. If Mr. Salman 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, Mr. Salman's failure to comply is not a violation of this Order. Mr. Salman shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Salman shall notify the Executive Director within seven days after Mr. Salman becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Mr. Salman shall be made in writing to the Executive Director. Extensions are not effective until Mr. Salman receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Mr. Salman if the Executive Director determines that Mr. Salman has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.

Mohammad Salman dba Shop N Save
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF LAURENCIA N. FASOYIRO

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

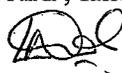
“My name is Laurencia N. Fasoyiro. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I 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 Al-Tahir U. S. A., Inc. dba Main Street Shell” (the “EDPRP”) with the Office of the Chief Clerk on September 8, 2005.

I sent the EDPRP to Al-Tahir at its last known address on September 8, 2005 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Al-Tahir received notice of the EDPRP on September 10, 2005, as evidenced by the signature on the card.

I sent the EDFARP to Al-Tahir at its last known address on August 21, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Al-Tahir received notice of the EDFARP on August 24, 2006, as evidenced by the signature on the card.

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



Laurencia N. Fasoyiro
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Laurencia N. Fasoyiro, 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 1 day of November A.D., 2006.

Notary Stamp



Notary Signature

