

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-1989-PST-E TCEQ ID NO.: RN102780855 CASE NO.: 27426
RESPONDENT NAME: AKRAM RIHANI DBA OAKLAND SHELL

Page 1 of 2

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: 1224 Oakland Boulevard, Fort Worth, Tarrant 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 December 4, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Mr. Marlin Bullard, Enforcement Division, MC R-9, (254) 761-3038

TCEQ Regional Contact: Mr. Don Wyrick, Waco Regional Office, MC R-9, (254) 761-3005

Respondent: Mr. Akram Rihani, Owner, Oakland Shell, 1224 Oakland Boulevard, Fort Worth, Texas 76103

Respondent's Attorney: Not represented by counsel.

**RESPONDENT'S NAME: AKRAM RIHANI DBA OAKLAND SHELL
DOCKET NO.: 2005-1989-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: July 15, 2005, November 14, 2005</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: July 15, 2005 (NOV), November 16, 2005 (NOE)</p> <p>Background Facts:</p> <p>The Agreed Order was signed on May18, 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 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 [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>2) Failed to pay UST fees for TCEQ FA Account Nos. 0063966U and 0058976U for fiscal year 2005 and associated late fees, as documented during a record review investigation conducted on November 14, 2005 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$1,090</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 to General Revenue: \$1,090</p> <p>The Respondent has paid the administrative penalty of \$1,090 in full.</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>Ordering Provision(s)</p> <p>1) The Respondent shall submit payment for outstanding fees, including any associated penalties and interest.</p> <p>2) The Respondent shall submit documentation that demonstrates current 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.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	21-Nov-2005			
	PCW	06-Jan-2006	Screening	01-Dec-2005	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Akram Rihani dba Oakland Shell				
Reg. Ent. Ref. No.	RN 102780855				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor Source		

CASE INFORMATION					
Enf./Case ID No.	27426	No. of Violations	2		
Docket No.	2005-1989-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Marlin Bullard		
Multi-Media		EC's Team	Enforcement Team 8		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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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	9% Enhancement	Subtotals 2, 3, & 7	\$90
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Notes Enhancement for one NOV with same or similar violations and two NOVs with dissimilar violations within the past five years.

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 EDPRP/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
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Total EB Amounts	\$683	<i>*Capped at the Total EB \$ Amount</i>
Approx. Cost of Compliance	\$650	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$1,090
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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	\$1,090
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$1,090
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DEFERRAL	0% 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 No deferral because this is a non-expedited case.

PAYABLE PENALTY	\$1,090
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Screening Date 01-Dec-2005

Docket No. 2005-1989-PST-E

PCW

Respondent Akram Rihani dba Oakland Shell

Policy Revision 2 (September 2002)

Case ID No. 27426

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN 102780855

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marlin Bullard

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 (number of NOV's meeting criteria)	1	5%
	Other written NOV's	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	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 (number of audits for which notices were)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	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) 9%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations and two NOV's with dissimilar violations within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 9%

Screening Date	01-Dec-2005	Docket No.	2005-1989-PST-E	PCW
Respondent	Akram Rihani dba Oakland Shell		<i>Policy Revision 2 (September 2002)</i>	
Case ID No.	27426		<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No.	RN 102780855			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Marlin Bullard			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)			
Secondary Rule Cite(s)				
Violation Description	The respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs, as documented during a record review investigation conducted on November 14, 2005. Specifically, the respondent failed to demonstrate acceptable financial assurance for one of the five USTs located at the facility.			
Base Penalty	\$10,000			

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

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
	Potential				

Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent
		x			

Matrix Notes: 100% of the rule requirement was not met.

Adjustment: -\$9,000

Base Penalty Subtotal \$1,000

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 \$1,000

One single event (one event per tank without financial assurance) is recommended.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$683	Violation Final Penalty Total: \$1,090
This violation Final Assessed Penalty (adjusted for limits): \$1,090	

Economic Benefit Worksheet

Respondent Akram Rihani dba Oakland Shell
Case ID No. 27426
Reg. Ent. Reference No. RN 102780855
Media [Statute] Petroleum Storage Tank
Violation No. 1

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							

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	\$650	08-Apr-2004	08-Apr-2005	1.0	\$33	\$650	\$683
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	Estimated cost to provide financial assurance for one petroleum UST for one year prior to the April 8, 2005 initial request to submit proof of financial assurance.						

Approx. Cost of Compliance \$650

TOTAL \$683

Screening Date	01-Dec-2005	Docket No.	2005-1989-PST-E	PCW
Respondent	Akram Rihani dba Oakland Shell			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	27426			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN 102780855			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Marlin Bullard			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.22(a)			
Secondary Rule Cite(s)	Tex. Water Code § 5.702			
Violation Description	Failure to pay UST fees for TCEQ FA Account Nos. 0063966U and 0058976U for fiscal year 2005 and associated late fees, in violation of 30 Tex. Admin. Code § 334.22(a) and Tex. Water Code § 5.702, as documented during a record review investigation conducted on December 01, 2005.			
Base Penalty	\$10,000			

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

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

No penalty is recommended because penalty and interest will be assessed at the next billing cycle.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$0"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$0"/>	

Economic Benefit Worksheet

Respondent: Akram Rihani dba Oakland Shell
 Case ID No: 27426
 Reg. Ent. Reference No: RN 102780855
 Media [Statute]: Petroleum Storage Tank
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN602823056 RIHANI, AKRAM	Classification: AVERAGE	Rating: 1.33
Regulated Entity:	RN102780855 OAKLAND SHELL	Classification: AVERAGE	Site Rating: 1.33
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		13598
Location:	1224 OAKLAND BLVD, FORT WORTH, TX, 76103	Rating Date: September 01 05	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	December 13, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 21, 2000 to November 21, 2005		

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

Name: Marlin Bullard Phone: (254) 761-3038

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 judgments, 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 | 09/29/2005 | (432208) | |
| 2 | 07/15/2005 | (419176) | |
| 3 | 11/07/2002 | (16272) | |
| 4 | 11/16/2005 | (437396) | |
| 5 | 08/02/2002 | (6338) | |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|------------------|---|--|
| Date: 07/15/2005 | (419176) | |
| 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: 07/26/2002 | (6338) | |
| Self Report? NO | | Classification: Minor |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.246(6) | |
| | Description: Daily inspection records were not available beyond 06/31/2002. Facility contact stated the owner conducted the inspections daily but did not put inspection sheets in until the end of each month. | |
| Self Report? NO | | Classification: Moderate |
| Citation: | 30 TAC Chapter 115, SubChapter C 115.242(3)[G] | |
| | Description: The following coaxial hoses were badly broken out so that the metal mesh was exposed:
Dispenser #2- premium
Dispenser #4- premium
Dispenser #5- plus and premium | Dispenser #6- regular and premium
Dispenser #7- premium |
| Date: 09/29/2005 | (432208) | |
| Self Report? NO | | Classification: Moderate |

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(K)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resource Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system, including a system monitor or printer that is malfunctioning.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)(G)

Description: Failure to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TXP-101 Vapor Space Manifold, and TXP-103 D

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(G)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resource Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system.

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
AGAINST AKRAM RIHANI DBA
OAKLAND SHELL;
RN102780855

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1989-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 Akram Rihani dba Oakland Shell ("Mr. Rihani") under the authority of TEX. WATER CODE chs. 5, 7 and 26, and 30 TEX. ADMIN. CODE chs. 37, 70 and 334. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Rihani, appear before the Commission and together stipulate that:

1. Mr. Rihani owns and operates a convenience store with retail sales of gasoline located at 1224 Oakland Boulevard, Fort Worth, Tarrant County, Texas (the "Facility").
2. Mr. Rihani's five underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Rihani's five USTs contains a regulated petroleum substance as defined in the rules of the Commission.
3. 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 chs. 5, 7, and 26 and the TCEQ rules.
4. The Commission and Mr. Rihani agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Rihani is subject to the Commission's jurisdiction.
5. Mr. Rihani received notice of the violations alleged in Section II ("Allegations") on or about November 21, 2005.

6. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Rihani of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
7. An administrative penalty in the amount of one thousand ninety dollars (\$1,090.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Rihani has paid one thousand ninety dollars (\$1,090.00) of the administrative penalty.
8. 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.
9. The Executive Director of the TCEQ and Mr. Rihani have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Rihani has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Rihani, owner and operator of the Facility, is alleged to have violated the following requirements:

- a. 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by the accidental releases arising from the operation of petroleum USTs during a record review conducted on November 14, 2005. Specifically, Mr. Rihani failed to demonstrate acceptable financial assurance for one of the five USTs located at the Facility.

- b. 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, by failing to pay UST fees for TCEQ Financial Assurance Account Nos. 0063966U and 0058976U and associated late fees for fiscal year 2005.

III. DENIALS

Mr. Rihani generally denies each allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Rihani pay an administrative penalty as set forth in Section I, Paragraph 7 above. The payment of this administrative penalty and Mr. Rihani's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: Akram Rihani dba Oakland Shell, Docket No. 2005-1989-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

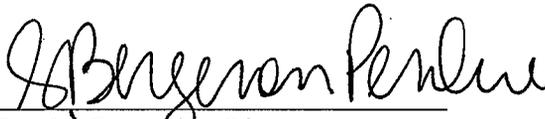
2. The provisions of this Agreed Order shall apply to and be binding upon Mr. Rihani. Mr. Rihani is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Rihani 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.
4. 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.

5. 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 Mr. Rihani, or three days after the date on which the Commission mails notice of the Order to Mr. Rihani, 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

12/11/06
~~5-17-06~~ JBP

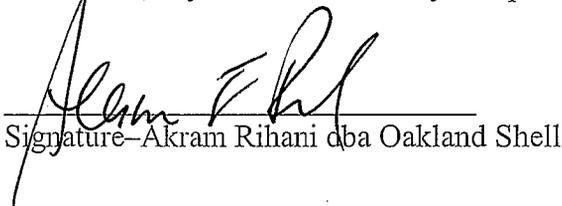
Date

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 - Akram Rihani dba Oakland Shell

5-18-06

Date

AKRAM RIHANI

Name (Printed or typed)

OWNER

Title

Authorized representative of Akram Rihani dba Oakland Shell