EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1303-PST-E **TCEQ ID:** RN102793577 **CASE NO.:** 30974

RESPONDENT NAME: Feroz Panjwani dba Handi Plus 44

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	X PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Handi Plus 44, 6625 Pinemont Drive, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: __X__ Yes ____ No

OTHER SIGNIFICANT MATTERS: There are no 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 22, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Philip DeFrancesco, Enforcement Division, Enforcement Section IV, MC R-04, (817) 588-5933; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Feroz Panjwani, Owner, Feroz Panjwani dba Handi Plus 44, 6666 Harwin Drive, Houston, Texas 77036

Respondent's Attorney: Not represented by counsel on this enforcement matter

Attachment: Site Compliance History

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** July 25, 2006 **Date of NOE Relating to this Case:** August 9, 2006 (NOE) **Background Facts:** This was a routine investigation. Three violations were documented. **WASTE** 1) Failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. DMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)]. 2) Failed to provide release detection for the piping associated with the underground storage tank ("UST") system. Specifically, Mr. Panjwani did not conduct monthly monitoring or annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a)]. 3) Failed to perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallons per hour from the UST system. Specifically, Mr. Panjwani did not put the automatic tank gauge into test mode at least once per month [30 TEX. ADMIN. CODE § 334.50(d)(4)(A)(ii)(II) and TEX. WATER CODE § 26.3475(c)(1)].	**Total Assessed:** $4,500 **Total Deferred:** $900 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $3,600 **Site Compliance History Classification:** _X_ High ___Avg. __Poor **Person Compliance History Classification:** __High _X_ Avg. __Poor **Major Source:** _X_ Yes ___ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that Mr. Panjwani implemented a release detection method for the USTs and the piping associated with the USTs on September 21, 2006.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	14-Aug-2006				
PCW	29-Aug-2006	Screening	23-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Feroz Panjwani dba Handi Plus 44		
Reg. Ent. Ref. No.	RN102793577		
Facility/Site Region	12-Houston	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	30974	No. of Violations	1
Docket No.	2006-1303-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Philip DeFrancesco
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* $5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0% Enhancement *Subtotals 2, 3, & 7* $0

Notes: No adjustment due to compliance history.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction *Subtotal 5* -$500

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

Notes: The respondent came into compliance September 21, 2006.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$12
Approx. Cost of Compliance	$1,100

SUM OF SUBTOTALS 1-7 Final Subtotal $4,500

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 $4,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $4,500

DEFERRAL 20% Reduction Adjustment -$900

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $3,600

Screening Date	23-Aug-2006	**Docket No.** 2006-1303-PST-E	**PCW**
Respondent	Feroz Panjwani dba Handi Plus 44		*Policy Revision 2 (September 2002)*
Case ID No.	30974		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN102793577		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Philip DeFrancesco		

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 *(number of NOVs meeting criteria)*	0	0%
	Other written NOVs	0	0%
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%
		Please Enter Yes or No	
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) **0%**

>> 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 No adjustment due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **0%**

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	23-Aug-2006
Docket No.	2006-1303-PST-E
Respondent	Feroz Panjwani dba Handi Plus 44
Case ID No.	30974
Reg. Ent. Reference No.	RN102793577
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Philip DeFrancesco
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III), 334.50(b)(2)(A), and 334.50(d)(4)(A)(ii)(II)
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(a) and (c)(1)
Violation Description	Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to provide release detection for the piping associated with the UST system. Specifically, the respondent did not conduct monthly monitoring or annual piping tightness test. Failed to perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallon per hour from the UST system. Specifically, the respondent did not put the automatic tank gauge into test mode at least once per month.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	X		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment 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 -$5,000

Base Penalty Subtotal $5,000

Violation Events

Number of Violation Events: 1

mark only one use a small x

daily	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $5,000

One monthly event is recommended from the July 25, 2006 investigation date to the August 23, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $12

Statutory Limit Test

Violation Final Penalty Total $4,500

This violation Final Assessed Penalty (adjusted for limits) $4,500

Economic Benefit Worksheet

Respondent: Feroz Panjwani dba Handi Plus 44
Case ID No.: 30974
Reg. Ent. Reference No.: RN102793577
Media [Statute]: Petroleum Storage Tank
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$1,000	25-Jul-2006	21-Sep-2006	0.2	$1	$11	$11
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	25-Jul-2006	21-Sep-2006	0.2	$1	n/a	$1
Notes for DELAYED costs	Estimated cost to test the line leak detectors and to conduct piping tightness test, and the estimated cost for personnel to put the automatic tank gauge into test mode. Date Required is the investigation date. Final Date is the 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							

Approx. Cost of Compliance: $1,100

TOTAL: $12

Compliance History

Customer/Respondent/Owner-Operator:	CN601419187	PANJWANI, FEROZ	Classification: AVERAGE	Rating: 1.50
Regulated Entity:	RN102793577	HANDI PLUS 44	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	64686	
Location:	6625 PINEMONT DR, HOUSTON, TX, 77092		Rating Date: 9/1/2005 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	August 14, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 14, 2001 to August 14, 2006			

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

Name: Christina J. Martinez Phone: 512-239-0739

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 05/20/2004 (272980)

2 08/09/2006 (490108)

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

N/A

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
FEROZ PANJWANI DBA HANDI	§	
PLUS 44	§	
RN102793577	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1303-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Feroz Panjwani dba Handi Plus 44 ("Mr. Panjwani") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Panjwani appear before the Commission and together stipulate that:

1. Mr. Panjwani owns and operates a convenience store with retail sales of gasoline at 6625 Pinemont Drive in Houston, Harris County, Texas (the "Facility").

2. Mr. Panjwani's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.

3. The Commission and Mr. Panjwani agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Panjwani is subject to the Commission's jurisdiction.

4. Mr. Panjwani received notice of the violations alleged in Section II ("Allegations") on or about August 14, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Panjwani of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Five Hundred Dollars ($4,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Panjwani has paid Three Thousand Six Hundred Dollars ($3,600) of the administrative penalty and Nine Hundred Dollars ($900) is deferred contingent upon Mr. Panjwani's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Panjwani fails to timely and satisfactorily

comply with all requirements of this Agreed Order, the Executive Director may require Mr. Panjwani to pay all or part of the deferred penalty.

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 Mr. Panjwani have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that Mr. Panjwani implemented a release detection method for the USTs and the piping associated with the USTs on September 21, 2006.

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. Panjwani 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

As owner and operator of the Facility, Mr. Panjwani is alleged to have:

1. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 25, 2006.

2. Failed to provide release detection for the piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 25, 2006. Specifically, Mr. Panjwani did not conduct monthly monitoring or annual piping tightness test.

3. Failed to perform an automatic test for substance loss that can detect a release which equals or exceeds a rate of 0.2 gallons per hour from the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(4)(A)(ii)(II) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on July 25, 2006. Specifically, Mr. Panjwani did not put the automatic tank gauge into test mode at least once per month.

III. DENIALS

Mr. Panjwani generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Panjwani pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Panjwani'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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Feroz Panjwani dba Handi Plus 44, Docket No. 2006-1303-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. Panjwani. Mr. Panjwani 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. Panjwani 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), the effective date is the date of hand-delivery of the Order to Mr. Panjwani, or three days after the date on which the Commission mails notice of the Order to Mr. Panjwani, 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

_____ 2/8/07
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order. 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.

Feroz Panjwani 10/26/06
Signature Date

Feroz Panjwani PRES.
Name (Printed or typed) Title
Authorized Representative of
Feroz Panjwani dba Handi Plus 44

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.