

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2004-1578-PST-E **TCEQ ID:** Petroleum Storage Tank Registration No. 20385 and RN101676096 **CASE NO.:** 20379
RESPONDENT NAME: Nuraj Enterprises, Inc. dba West End Grocery

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: West End Grocery, 907 West Washington Avenue, Navasota, Grimes County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: 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 February 26, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Marlin Bullard, Enforcement Division, Enforcement Section IV, MCR-09, (254) 761-3038; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Central Office Investigator: Mr. Rob Norris, Financial Administration Division, Revenue Section, MC 184, (512) 239-6239

Respondent: Mr. Karim Momin, Responsible Party/Manager, Nuraj Enterprises, Inc. dba West End Grocery, 907 West Washington Avenue, Navasota, Texas 77868

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

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 of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 12, 2004</p> <p>Date of NOV/NOE Relating to this Case: June 24, 2003 (NOV), September 16, 2004 (NOE)</p> <p>Background Facts: A Financial Assurance File review was conducted and it was determined that the Respondent did not have the required financial assurance.</p> <p>WASTE</p> <p>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 the underground storage tanks ("USTs") [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p>Total Assessed: \$1,600</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,600</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 Actions Taken:</p> <p>The Executive Director recognizes that Nuraj Enterprises obtained financial assurance for all USTs at the Facility on May 15, 2003.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 17, 2004

DATES

PCW Screening Priority Due EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Additional ID No(s)
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Case Priority Enf. Coordinator
 Media Program(s) EC's Team
 Multi-Media
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1

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

Notes

Culpability 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 25% Reduction Subtotal 5

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<i>(mark with a small x)</i>

Notes

Economic Benefit 0% Enhancement* Subtotal 6

Total EB Amounts	<input type="text" value="\$1,365"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,300"/>	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 0% Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date	29-Sep-2004	Docket No.	2004+1578-PST-E	PCW
Respondent	Nuraj Enterprises, Inc. dba West End Grocery			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	20379			<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No.	RN101676096			
Additional ID No(s).	Petroleum Storage Tank Registration No. 20385			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Lella Pezeshki			
Site Address	907 West Washington Avenue, Navasota, Grimes County, Texas 77868			

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%
Other	<i>Please Enter Yes or No</i>		
	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> **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	29-Sep-2004	Docket No.	2004-1578-PST-E	PCW
Respondent	Nuraj Enterprises, Inc. dba West End Grocery			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	20379			<i>PCW Revision May 17, 2004</i>
Reg. Ent. Reference No.	RN101676096			
Additional ID No(s)	Petroleum Storage Tank Registration No. 20385			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Leila Pezeshki			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)			
Secondary Rule Cite(s)				
Violation Description	Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the USTs.			
		Base Penalty	\$10,000	

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

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

OR

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
	X			Percent <input type="text" value="10%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,365"/>	Violation Final Penalty Total <input type="text" value="\$1,600"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,600"/>	

Economic Benefit Worksheet

Respondent: Nuraj Enterprises, Inc. dba West End Grocery
 Case ID No: 20379
 Reg. Ent. Reference No: RN101676096
 Additional ID No(s): Petroleum Storage Tank Registration No. 20385
 Media [Statute]: Petroleum Storage Tank
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15
Onetime Costs	EB Amount

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: There were no delayed costs associated with this violation.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,300	02-Apr-2002	02-Apr-2003	1.0	\$65	\$1,300	\$1,365
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: The avoided cost is the estimated cost to provide financial assurance for the two underground storage tanks at the Facility (\$650 per tank). Date required (April 2, 2002) is one year prior to the initial letter requesting proof of Financial Assurance.

Approx. Cost of Compliance \$1,300

TOTAL \$1,365

Compliance History

Customer/Respondent/Owner-Operator:	CN600905186 NURAJ ENTERPRISES INC	Classification: AVERAGE	Rating: 1.500
Regulated Entity:	RN101676096 WEST END GROCERY	Classification: AVERAGE	Site Rating: 1.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	20385
Location:	907 W WASHINGTON AVE, NAVASOTA, TX, 77868		Rating Date: 9/1/04 Repeat Violator: NO
TCEQ Region:	REGION 09 - WACO		
Date Compliance History Prepared:	December 06, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 06, 1999 to December 06, 2004		

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

Name: Leila Pezeshki Phone: 210-403-4080

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> |
| 6. Comments: | |

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 09/16/2004 (289796)
 - 2 06/24/2003 (277847)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 06/24/2003 (277847)
 - Self Report? NO
 - 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.
 - Classification: Moderate
- 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	§	
NURAJ ENTERPRISES, INC. DBA	§	
WEST END GROCERY	§	TEXAS COMMISSION ON
PETROLEUM STORAGE TANK	§	
REGISTRATION NO. 20385	§	
RN101676096	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2004-1578-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 Nuraj Enterprises, Inc. dba West End Grocery ("Nuraj Enterprises") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Nuraj Enterprises appear before the Commission and together stipulate that:

1. Nuraj Enterprises owns and operates a convenience store with retail sales of gasoline at 907 West Washington Avenue in Navasota, Grimes County, Texas (the "Facility").
2. Nuraj Enterprises' 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 Nuraj Enterprises agree that the Commission has jurisdiction to enter this Agreed Order, and that Nuraj Enterprises is subject to the Commission's jurisdiction.
4. Nuraj Enterprises received notice of the violations alleged in Section II ("Allegations") on or about September 21, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Nuraj Enterprises of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Six Hundred Dollars (\$1,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nuraj Enterprises has paid the One Thousand Six Hundred Dollar (\$1,600) administrative 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 Nuraj 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 recognizes that Nuraj Enterprises obtained financial assurance for all USTs at the Facility on May 15, 2003.
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 Nuraj Enterprises 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, Nuraj Enterprises is alleged to have 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 the USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during a record review conducted on August 12, 2004.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Nuraj Enterprises pay an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty and Nuraj 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 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: Nuraj Enterprises, Inc. dba West End Grocery, Docket No. 2004-1578-PST-E" to:

...the ... of ...

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 Nuraj Enterprises. Nuraj 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against Nuraj 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.
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 Nuraj Enterprises, or three days after the date on which the Commission mails notice of the Order to Nuraj Enterprises, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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Nuraj Enterprises, Inc. dba West End Grocery
DOCKET NO. 2004-1578-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

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.



Signature

Nov. 14, 2006

Date

Karim Momin

Name (Printed or typed)
Authorized Representative of
Nuraj Enterprises, Inc. dba West End Grocery

Manager

Title



For the Executive Director

5/10/07

Date

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.

Handwritten scribbles and faint markings, possibly including a signature or initials.

Faint, illegible handwritten text or markings.

Very faint, illegible handwritten text or markings at the bottom of the page.