EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2014-PST-E **TCEQ ID:** RN102432697 **CASE NO.:** 31776

RESPONDENT NAME: Alia Enterprises, Inc. dba Shaver 66

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Shaver 66, 4120 South Shaver Street, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: ____ Yes X 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 May 7, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-0577; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Mehboob Mohammed, President, Alia Enterprises, Inc., 10300 Wilcrest Drive #2106, Houston, Texas 77099

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** November 2, 2006 **Date of NOE Relating to this Case:** November 17, 2006(NOE) **Background Facts:** This was a routine investigation. **WASTE** Failed to monitor underground storage tanks (USTs) for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not put into test mode at least once per month [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].	**Total Assessed:** $2,300 **Total Deferred:** $460 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $315 (the remaining $1,525 shall be paid in five monthly payments of $305 each) **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that Alia Enterprises implemented a release detection method for all USTs at the Facility on November 30, 2006.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision November 17, 2006*

TCEQ

DATES					
Assigned	20-Nov-2006				
PCW	21-Nov-2006	Screening	21-Nov-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Alia Enterprises, Inc. dba Shaver 66		
Reg. Ent. Ref. No.	RN102432697		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	31776	No. of Violations	1
Docket No.	2006-2014-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Acharya
Multi-Media		EC's Team	EnforcementTeam 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 2% Enhancement — *Subtotals 2, 3, & 7* **$50**

Notes: Enhancement for one previous NOV with a dissimilar violation.

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* **$250**

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

Notes: The respondent came into compliance on November 30, 2006.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$6
Approx. Cost of Compliance	$1,500

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$2,300**

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 **$2,300**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$2,300**

DEFERRAL — 20% Reduction — *Adjustment* **-$460**

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 **$1,840**

Screening Date	21-Nov-2006	**Docket No.** 2006-2014-PST-E	**PCW**
Respondent	Alia Enterprises, Inc. dba Shaver 66		*Policy Revision 2 (September 2002)*
Case ID No.	31776		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN102432697		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Rajesh Acharya		

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	1	2%
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 submitted*)	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) 2%

>> 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 previous NOV with a dissimilar violation.

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

Screening Date	21-Nov-2006	**Docket No.** 2006-2014-PST-E	**PCW**
Respondent	Alia Enterprises, Inc. dba Shaver 66		*Policy Revision 2 (September 2002)*
Case ID No.	31776		*PCW Revision November 17, 2006*
Reg. Ent. Reference No.	RN102432697		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Rajesh Acharya		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)

Violation Description Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the automatic tank gauge was not put into test mode at least once per month.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

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

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 1

19 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended from the November 2, 2006 investigation date to the November 21, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $6

Statutory Limit Test

Violation Final Penalty Total $2,300

This violation Final Assessed Penalty (adjusted for limits) $2,300

Economic Benefit Worksheet

Respondent Alia Enterprises, Inc. dba Shaver 66
Case ID No. 31776
Reg. Ent. Reference No. RN102432697
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$1,500	2-Nov-2006	30-Nov-2006	0.1	$6	n/a	$6
Notes for DELAYED costs	Estimated cost to monitor USTs for releases. The Date Required is the date of investigation. The 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 $1,500

TOTAL $6

Compliance History

Customer/Respondent/Owner-Operator:	CN602937690	Alia Enterprises, Inc.	Classification: AVERAGE	Rating: 1.00
Regulated Entity:	RN102432697	SHAVER 66	Classification: AVERAGE	Site Rating: 1.00

ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	49954
	WASTE WATER GENERAL PERMIT	PERMIT	TXG830143
Location:	4120 S SHAVER ST, HOUSTON, TX, 77034	Rating Date: September 01 06	Repeat Violator: NO

TCEQ Region:	REGION 12 - HOUSTON
Date Compliance History Prepared:	November 20, 2006
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	November 20, 2001 to November 20, 2006

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

Name: Rajesh Acharya Phone: (512) 239-0577

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 11/17/2006 (519057)
2 09/27/2002 (146259)
3 05/05/2003 (146312)

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

Date: 09/27/2002 (146259)
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 demonstrate FA beginning 8/9/2002.

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**
ALIA ENTERPRISES, INC. DBA	§	
SHAVER 66	§	
RN102432697	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2014-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 Alia Enterprises, Inc. dba Shaver 66 ("Alia Enterprises") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Alia Enterprises appear before the Commission and together stipulate that:

1. Alia Enterprises owns and operates a convenience store with retail sales of gasoline at 4120 South Shaver Street in Houston, Harris County, Texas (the "Facility").

2. Alia Enterprises' three 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 Alia Enterprises agree that the Commission has jurisdiction to enter this Agreed Order, and that Alia Enterprises is subject to the Commission's jurisdiction.

4. Alia Enterprises received notice of the violations alleged in Section II ("Allegations") on or about November 22, 2006.

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

6. An administrative penalty in the amount of Two Thousand Three Hundred Dollars ($2,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Alia Enterprises has paid Three Hundred Fifteen Dollars ($315) of the administrative penalty and Four Hundred Sixty Dollars ($460) is deferred contingent upon Alia Enterprises' 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 Alia Enterprises fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Alia Enterprises to pay all or part of the deferred penalty.

The remaining amount of One Thousand Five Hundred Twenty-Five Dollars ($1,525) of the administrative penalty shall be payable in five monthly payments of Three Hundred Five Dollars ($305) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Alia Enterprises fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Alia Enterprises to meet the payment schedule of this Agreed Order constitutes the failure by Alia Enterprises to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and Alia 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 Alia Enterprises implemented a release detection method for all USTs at the Facility on November 30, 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 Alia 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, Alia Enterprises is alleged to have failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on November 2, 2006. Specifically, the automatic tank gauge was not put into test mode at least once per month.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Alia Enterprises pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Alia 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: Alia Enterprises, Inc. dba Shaver 66, Docket No. 2006-2014-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 Alia Enterprises. Alia 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. If Alia Enterprises fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Alia Enterprises' failure to comply is not a violation of this Agreed Order. Alia Enterprises shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Alia Enterprises shall notify the Executive Director within seven days after Alia Enterprises becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Alia Enterprises shall be made in writing to the Executive Director. Extensions are not effective until Alia Enterprises receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

5. This Agreed Order, issued by the Commission, shall not be admissible against Alia 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.

6. 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.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Alia Enterprises, or three days after the date on which the Commission mails notice of the Order to Alia Enterprises, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

5/25/07
~~2-15-07~~
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.

M. MOHAMMED
Signature

2-15-07
Date

MEHBOOB MOHAMMED
Name (Printed or typed)
Authorized Representative of
Alia Enterprises, Inc. dba Shaver 66

President
Title

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.