EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-2096-PST-E **TCEQ ID:** RN102238243 **CASE NO.:** 31882

RESPONDENT NAME: East Business, Inc. dba Shop N Go

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: Shop N Go, 27150 East River Road, Splendora, Montgomery 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 May 7, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Section IV, MC R-04, (817) 588-5825; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Barkat R. Momin, President, East Business, Inc. dba Shop N Go, 8110 Fair Bank North, Houston, Texas 77064

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 28, 2006(NOE) **Background Facts:** This was a routine investigation. **WASTE** 1) Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request. Specifically, records not available for review included a copy of the California Air Resources Board Executive Order for the Stage II system, maintenance records, and test records [30 TEX. ADMIN. CODE § 115.246(1), (3), (5), and (7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failed to conduct daily and monthly inspections of the Stage II vapor recovery system (VRS) [30 TEX. ADMIN. CODE § 115.244(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 3) Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II VRS and that each current employee received in-house Stage II vapor recovery training regarding the purpose and operation of the VRS [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 4) Failed 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. Specifically, the Stage II annual system compliance testing had not been successfully completed [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $5,775 **Total Deferred:** $1,155 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $140 (the remaining $4,480 shall be paid in 35 monthly payments of $128 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:** 1) The Executive Director recognizes that East Business, Inc. has implemented the following corrective measures at the Station: a) As of December 12, 2006, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying records are being maintained at the Station; b) As of December 12, 2006, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that daily and monthly inspections are being conducted; and c) As of December 12, 2006, the Dallas/Fort Worth Regional Office received verification that one Station representative successfully completed the representative Stage II vapor recovery training and all current employees have received in-house Stage II vapor recovery awareness training. **Ordering Provisions:** 2) The Order will require the Respondent to: a) Within 30 days after the effective date of this Agreed Order, conduct testing of the Stage II equipment; and b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision December 8, 2006*

TCEQ

DATES					
Assigned	4-Dec-2006				
PCW	9-Dec-2006	Screening	6-Dec-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	East Business, Inc. dba Shop N Go		
Reg. Ent. Ref. No.	RN102238243		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	31882	No. of Violations	4
Docket No.	2006-2096-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
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* **$5,500**

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* **$275**

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

Culpability — No — 0% Enhancement — *Subtotal 4* **$0**

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 0% Reduction — *Subtotal 5* **$0**

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

Notes: The respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$1,107
Approx. Cost of Compliance	$3,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$5,775**

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 **$5,775**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$5,775**

DEFERRAL — 20% Reduction — *Adjustment* **-$1,155**

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 **$4,620**

Screening Date	6-Dec-2006	**Docket No.** 2006-2096-PST-E	**PCW**
Respondent	East Business, Inc. dba Shop N Go		*Policy Revision 2 (September 2002)*
Case ID No.	31882		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN102238243		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Judy Kluge		

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*)	1	5%
	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 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) 5%

>> 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 prior NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date	6-Dec-2006	**Docket No.** 2006-2096-PST-E	**PCW**
Respondent	East Business, Inc. dba Shop N Go		*Policy Revision 2 (September 2002)*
Case ID No.	31882		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN102238243		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Judy Kluge		

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.246(1), (3), (5), and (7)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request. Specifically, records not available for review included a copy of the California Air Resources Board (CARB) Executive Order for the Stage II system, maintenance records, and test records.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

34 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended based on the documentation of the violation during the November 2, 2006 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $1,050

This violation Final Assessed Penalty (adjusted for limits) $1,050

Economic Benefit Worksheet

Respondent East Business, Inc. dba Shop N Go
Case ID No. 31882
Reg. Ent. Reference No. RN102238243
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	$500	2-Nov-2006	12-Dec-2006	0.1	$3	n/a	$3
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	Estimated cost to establish a record keeping system at the Station. The date required is the investigation date and 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: $500

TOTAL: $3

Screening Date	6-Dec-2006	**Docket No.** 2006-2096-PST-E	**PCW**
Respondent	East Business, Inc. dba Shop N Go		*Policy Revision 2 (September 2002)*
Case ID No.	31882		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN102238243		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Judy Kluge		

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.244(1) and (3) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1

34 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended based on documentation of the violation during the November 2, 2006 investigation to the December 6, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $5

Statutory Limit Test

Violation Final Penalty Total $1,050

This violation Final Assessed Penalty (adjusted for limits) $1,050

Economic Benefit Worksheet

Respondent East Business, Inc. dba Shop N Go
Case ID No. 31882
Reg. Ent. Reference No. RN102238243
Media Petroleum Storage Tank
Violation No. 2

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	$1,000	2-Nov-2006	12-Dec-2006	0.1	$5	n/a	$5
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	Estimated expense to conduct daily and monthly inspections of the Stage II system. The date required is the investigation date and 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 $1,000

TOTAL $5

Screening Date 6-Dec-2006 **Docket No.** 2006-2096-PST-E **PCW**

Respondent East Business, Inc. dba Shop N Go *Policy Revision 2 (September 2002)*

Case ID No. 31882 *PCW Revision December 8, 2006*

Reg. Ent. Reference No. RN102238243

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system and that each current employee received in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 — 34 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended based on documentation of the violation during the November 2, 2006 investigation to the December 6, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $3

Statutory Limit Test

Violation Final Penalty Total $1,050

This violation Final Assessed Penalty (adjusted for limits) $1,050

Economic Benefit Worksheet

Respondent East Business, Inc. dba Shop N Go
Case ID No. 31882
Reg. Ent. Reference No. RN102238243
Media Petroleum Storage Tank
Violation No. 3

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	$500	2-Nov-2006	12-Dec-2006	0.1	$3	n/a	$3
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	Estimated cost of training employees in regard to Stage II training. The date required is the investigation date and 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: $500

TOTAL: $3

Screening Date	6-Dec-2006	**Docket No.** 2006-2096-PST-E	**PCW**
Respondent	East Business, Inc. dba Shop N Go		*Policy Revision 2 (September 2002)*
Case ID No.	31882		*PCW Revision December 8, 2006*
Reg. Ent. Reference No.	RN102238243		
Media [Statute]	Petroleum Storage Tank		
Enf. Coordinator	Judy Kluge		

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed 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. Specifically, the Stage II annual system compliance testing had not been successfully completed.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the evironment 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

365 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $2,500

One annual event is recommended for the 12 month period preceding the November 2, 2006 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,096

Statutory Limit Test

Violation Final Penalty Total $2,625

This violation Final Assessed Penalty (adjusted for limits) $2,625

Economic Benefit Worksheet

Respondent East Business, Inc. dba Shop N Go
Case ID No. 31882
Reg. Ent. Reference No. RN102238243
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]	$1,000	2-Nov-2005	2-Nov-2006	1.9	$96	$1,000	$1,096
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	Estimated cost for annual testing to verify proper operation of the Stage II equipment. The date required is one year prior to the investigation date and the final date is the investigation date.						

Approx. Cost of Compliance $1,000

TOTAL $1,096

Compliance History

Customer/Respondent/Owner-Operator:	CN602595886	East Business, Inc.	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN102238243	SHOP N GO	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION			10828
Location:	27150 E RIVER RD, SPLENDORA, TX, 77372		Rating Date: 9/1/2006	Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: December 08, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 04, 2001 to December 04, 2006

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

Name: Judy Kluge Phone: 817-588-5825

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 12/6/2001 (531368)
2 11/28/2006 (518259)

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

November 13, 2001
Citation: 30 Tex. Admin. Code Subchapter C
115.246(7)(A) Self Report? NO
Classification: Moderate
Description: FAILURE TO COMPLY

Self Report? NO
Classification: Moderate
Citation: 30 Tex. Admin. Code Subchapter C
115.246(1)
Description: FAILURE TO COMPLY

Self Report? NO
Classification: Moderate
Citation: 30 Tex. Admin. Code Subchapter C
115.246(3)
Description: FAILURE TO COMPLY

Self Report? NO
Classification: Moderate
Citation: 30 Tex. Admin. Code Subchapter C
115.246(5)
Description: FAILURE TO COMPLY

Self Report? NO
Classification: Moderate
Citation: 30 Tex. Admin. Code Subchapter C
115.248(1)
Description: FAILURE TO COMPLY

Self Report? NO
Classification: Moderate
Citation: 30 Tex. Admin. Code Subchapter C
115.244(1)
Description: FAILURE TO COMPLY

Self Report? NO
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 ENFORCEMENT ACTION CONCERNING EAST BUSINESS, INC. DBA SHOP N GO RN102238243	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-2096-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 East Business, Inc. dba Shop N Go ("East Business, Inc.") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and East Business, Inc. appear before the Commission and together stipulate that:

1. East Business, Inc. owns and operates a convenience store with retail sales of gasoline at 27150 East River Road in Splendora, Montgomery County, Texas (the "Station").

2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

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

4. East Business, Inc. received notice of the violations alleged in Section II ("Allegations") on or about December 3, 2006.

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

6. An administrative penalty in the amount of Five Thousand Seven Hundred Seventy-Five Dollars ($5,775) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). East Business, Inc. has paid One Hundred Forty Dollars ($140) of the administrative penalty and One Thousand One Hundred Fifty-Five Dollars ($1,155) is deferred contingent upon East Business, Inc.'s timely and satisfactory compliance with all the terms of this Agreed Order. If East Business, Inc. fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require East Business, Inc. to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Four Hundred Eighty Dollars ($4,480) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Twenty Eight Dollars ($128) 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 East Business, Inc. 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 East Business, Inc. to meet the payment schedule of this Agreed Order constitutes the failure by East Business, Inc. 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 East Business, Inc. 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 East Business, Inc. has implemented the following corrective measures at the Station:

   a. As of December 12, 2006, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying records are being maintained at the Station;

   b. As of December 12, 2006, the TCEQ Dallas/Fort Worth Regional office received documentation verifying that daily and monthly inspections are being conducted; and

   c. As of December 12, 2006, the Dallas/Fort Worth Regional office received verification that one Station representative successfully completed the representative Stage II vapor recovery training and all current employees have received in-house Stage II vapor recovery awareness training.

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 East Business, Inc. 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 Station, East Business, Inc. is alleged to have:

1. Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request, in violation of 30 TEX. ADMIN. CODE § 115.246(1), (3), (5) and (7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 2, 2006. Specifically, records not available for review included a copy of the California Air Resources Board (CARB) Executive Order for the Stage II system, maintenance records, and test records.

2. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 2, 2006.

3. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system and that each current employee received in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 2, 2006.

4. Failed 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, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 2, 2006. Specifically, the Stage II annual system compliance testing had not been successfully completed.

III. DENIALS

East Business, Inc. generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that East Business, Inc. pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and East Business, Inc.'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: East Business, Inc. dba Shop N Go, Docket No. 2006-2096-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. It is further ordered that East Business, Inc. shall undertake the following technical requirements:

   a. Within 30 days after the effective date of this Agreed Order, conduct testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and

   b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

   "I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

   The certification shall be submitted to:

   Order Compliance Team
   Enforcement Division, MC 149A
   Texas Commission on Environmental Quality
   P.O. Box 13087
   Austin, Texas 78711-3087

   with a copy to:

   Manager, Waste Section
   Houston Regional Office
   Texas Commission on Environmental Quality
   5425 Polk Avenue, Suite H
   Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon East Business, Inc. East Business, Inc. is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

4. If East Business, Inc. 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, East Business, Inc.'s failure to comply is not a violation of this Agreed Order. East Business, Inc. shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. East Business, Inc. shall notify the Executive

Director within seven days after East Business, Inc. becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. 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 East Business, Inc. shall be made in writing to the Executive Director. Extensions are not effective until East Business, Inc. receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against East Business, Inc. 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.

7. 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.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to East Business, Inc., or three days after the date on which the Commission mails notice of the Order to East Business, Inc., 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

_____ 6/4/07
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.

Barkat R. Momin 2/7/07
Signature Date

BARKAT R. MOMIN, President
Name (Printed or typed) Title
Authorized Representative of
East Business, Inc. dba Shop N Go

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.