

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2005-1449-PST-E TCEQ ID: RN102353554 CASE NO.: 26562
RESPONDENT NAME: SOHAIL AFRIDI DBA LUMBERTON FOOD MART

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2346 Highway 69 South Lumberton, Hardin County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 11, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Mr. Mark Curnutt, Litigation Division, MC-175, (512) 239-0624 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Deana Holland, Enforcement Division, Section IV, MC-219, (512) 239-2504 TCEQ Regional Contact: Mr. Keith Anderson, Beaumont Regional Office, MC R-10, (409) 898-3838 Respondent: Mr. Sohail Afridi, Owner, Sohail Afridi dba Lumberton Food Mart, 2346 Highway 69 South, Lumberton, Texas 77657 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: June 14, 2005, and August 19, 2005.</p> <p>Date of NOV(s)/NOE(s) Relating to this Case: January 4, 2005 (NOV), August 12, 2005 (NOE).</p> <p>Background Facts: The EDPRP was filed on February 13, 2006. The Respondent received notice of the EDPRP on February 18, 2006 as indicated by the signature on the "green card." The Respondent did not file an answer or request a Hearing within 20 days. The staff attorney attempted to contact the Respondent by telephone prior to filing the EDPRP and before filing the Default.</p> <p>PST:</p> <p>1) Failed to maintain all UST records at the Station and make them available for inspection to Commission personnel upon request [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>2) Failed to verify proper operation of the Stage II equipment at least once every twelve months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>4) Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances as a motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>5) Failed to pay UST fees for TCEQ Petroleum Storage Tank Account No. 0060267U and associated late fees for fiscal year 2005 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$8,925</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$8,925 This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <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>Order Provisions:</p> <p>Respondent shall, within 30 days, submit payment for all outstanding fees.</p> <p>This Respondent no longer owns or operates the Station.</p>



Penalty Calculation Worksheet (PCW)

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

DATES	Assigned PCW	15-Aug-2005	Screening	22-Aug-2005	EPA Due	
		15-Dec-2005				

RESPONDENT/FACILITY INFORMATION	
Respondent	Sohail Afridi dba Lumberton Food Mart
Reg. Ent. Ref. No.	RN102353554
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	26562	No. of Violations	5
Docket No.	2005-1449-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Deana Holland
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

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 No 0% Enhancement **Subtotal 4**

Notes

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

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	<i>(mark with a small x)</i>

Notes

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

Total EB Amounts	\$600	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$2,300	

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 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 22-Aug-2005 **Docket No.** 2005-1449-PST-E **PCW**
Respondent Sohail Afridi dba Lumberton Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 26562 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102353554
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Deana Holland

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) 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 NOV with same or similar violations.

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

Screening Date 22-Aug-2005 **Docket No.** 2005-1449-PST-E **PCW**
Respondent Sohail Afridi dba Lumberton Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 26562 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102353554
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Deana Holland
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description
Base Penalty

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

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	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="text" value="x"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Sohail Afridi dba Lumberton Food Mart
Case ID No. 26562
Reg. Ent. Reference No. RN102353554
Media [Statute] Petroleum Storage Tank
Violation No. 1

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	\$100	14-Jun-2005	14-Apr-2006	0.8	\$4	n/a	\$4
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 maintain required records. The Required date is the investigation date. The Final date is estimated 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: n/a

Approx. Cost of Compliance

TOTAL

Screening Date 22-Aug-2005 **Docket No.** 2005-1449-PST-E **PCW**

Respondent Sohail Afridi dba Lumberton Food Mart *Policy Revision 2 (September 2002)*

Case ID No. 26562 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102353554

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description
 Failure to verify proper operation of the Stage II equipment at least once every twelve months. Specifically, at the time of the investigation there had been no annual vapor recovery testing conducted within the last year. The last annual vapor recovery test conducted was on May 25, 2004.

Base Penalty

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

		Harm				
Release		Major	Moderate	Minor		
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

>> **Programmatic Matrix**

		Major	Moderate	Minor		
Falsification		<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>	

Matrix Notes

Human health or the 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

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

One annual event is recommended for the 12 month period preceding the investigation date of June 14, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Sohail Afridi dba Lumberton Food Mart
 Case ID No. 26562
 Reg. Ent. Reference No. RN102353554
 Media [Statute] Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs	n/a						

Item	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	\$500	14-Jun-2004	14-Jun-2005	1.0	\$25	\$500	\$525
Notes for AVOIDED costs	Estimated cost to perform the required test. Date required is 12 months prior to the investigation date and the Final date is the date of the investigation.						

Approx. Cost of Compliance **\$500**

TOTAL \$525

Screening Date 22-Aug-2005 **Docket No.** 2005-1449-PST-E **PCW**
Respondent Sohail Afridi dba Lumberton Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 26562 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102353554
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Deana Holland
Violation Number 3
Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A)
Secondary Rule Cite(s) Tex. Water Code § 26.3475(c)(1)
Violation Description Failure to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, at the time of the investigation, the station was not conducting any release detection.

Base Penalty \$10,000

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

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

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of June 14, 2005 to the screening date of August 22, 2005.

Economic Benefit (EB) for this violation

Estimated EB Amount \$62

Statutory Limit Test

Violation Final Penalty Total \$2,625

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

Economic Benefit Worksheet

Respondent Sohail Afridi dba Lumberton Food Mart
Case ID No. 26562
Reg. Ent. Reference No. RN102353554
Media [Statute] Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Percent Interest	Years of Depreciation
						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	14-Jun-2005	14-Apr-2006	0.8	\$62	n/a	\$62

Notes for DELAYED costs: Estimated cost of monitoring USTs, conducting annual tightness tests, and testing line leak detectors. The Date Required is the investigation date and the Final Date is the estimated 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: n/a

Approx. Cost of Compliance **\$1,500**

TOTAL **\$62**

Screening Date 22-Aug-2005 **Docket No.** 2005-1449-PST-E **PCW**

Respondent Sohail Afridi dba Lumberton Food Mart *Policy Revision 2 (September 2002)*

Case ID No. 26562 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102353554

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Deana Holland

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Sohail Afridi dba Lumberton Food Mart
Case ID No. 26562
Reg. Ent. Reference No. RN102353554
Media [Statute] 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
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)	\$200	14-Jun-2005	14-Apr-2006	0.8	\$8	n/a	\$8

Notes for DELAYED costs: Estimated cost of conducting monthly inventory control. Date Required is the investigation date and Final Date is the estimated 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: n/a

Approx. Cost of Compliance

TOTAL

Screening Date 22-Aug-2005 **Docket No.** 2005-1449-PST-E **PCW**
Respondent Sohail Afridi dba Lumberton Food Mart *Policy Revision 2 (September 2002)*
Case ID No. 26562 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102353554
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Deana Holland
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Sohail Afridi dba Lumberton Food Mart
 Case ID No. 26562
 Reg. Ent. Reference No. RN102353554
 Media [Statute] Petroleum Storage Tank
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: n/a

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs					
Disposal		0.0	\$0	\$0	\$0
Personnel		0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling		0.0	\$0	\$0	\$0
Supplies/equipment		0.0	\$0	\$0	\$0
Financial Assurance [2]		0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]		0.0	\$0	\$0	\$0
Other (as needed)		0.0	\$0	\$0	\$0

Notes for AVOIDED costs: n/a

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator: CN602711145 AFRIDI, SOHAIL Classification: AVERAGE Rating: 3.000

Regulated Entity: RN102353554 LUMBERTON FOOD MART Classification: AVERAGE Site Rating: 3.00

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 43368

Location: 2346 HIGHWAY 69 S, LUMBERTON, TX, 77657 Rating Date: 9/1/05 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: October 10, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 10, 2000 to October 10, 2005

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Deana Holland Phone: (512)239-2504

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? Yes
3. If Yes, who is the current owner? AFRIDI, SOHAIL
4. If Yes, who was/were the prior owner(s)? FFP Operating Partners LP
5. When did the change(s) in ownership occur? 08/05/2004
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 08/12/2005 (396458)
- 2 08/14/2003 (146223)
- 3 12/10/2004 (335806)

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

Date: 12/10/2004 (335806)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)[G]

Description: Failure to supply records on corrosion protection, release detection, and inventory control.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to make available records of daily or monthly inspections, facility training records, maintenance records, the associated CARB order, annual or triennial testing records.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.48(e)

Description: During the investigation, there was an alarm on the satellite line leak detector. B18

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Install and anchor the shear valves on the diesel satellite dispensers. B18

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
SOHAIL AFRIDI DBA
LUMBERTON FOOD MART,
RN102353554**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2005-1449-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7, and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Sohail Afridi dba Lumberton Food Mart ("Mr. Afridi").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. At the time of the violations, Mr. Afridi owned and operated a convenience store with retail sales of gasoline at 2346 Highway 69 South in Lumberton, Hardin County, Texas (the "Station").
2. Mr. Afridi's underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Afridi's USTs contain a regulated petroleum substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an inspection conducted on June 14, 2005, a TCEQ Beaumont Regional Office investigator documented that Mr. Afridi:
 - a. failed to maintain all UST records at the Station and make them available for inspection to Commission personnel upon request. Specifically, the records for release detection, corrosion protection, and inventory control were not available;

- b. failed to verify proper operation of the Stage II equipment at least once every twelve months. Specifically, at the time of the investigation there had been no annual vapor recovery testing conducted within the last year. The last annual vapor recovery test conducted was on May 25, 2004;
 - c. failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, at the time of the investigation, the Station was not conducting any release detection; and
 - d. failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances as a motor fuel.
4. During a record review on August 19, 2005, TCEQ staff documented that Mr. Afridi failed to pay UST fees for TCEQ Petroleum Storage Tank Account No. 0060267U and associated late fees for fiscal year 2005.
 5. Mr. Afridi received notice of the violations on or about August 17, 2005 and October 14, 2005.
 6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sohail Afridi dba Lumberton Food Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on February 13, 2006.
 7. By letter dated February 13, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Afridi with notice of the EDPRP. According to the return receipt "green card," Mr. Afridi received notice of the EDPRP on February 18, 2006, as evidenced by the signature on the card.
 8. More than 20 days have elapsed since Mr. Afridi received notice of the EDPRP, provided by the Executive Director. Mr. Afridi failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Afridi is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7, and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3.a., Mr. Afridi failed to maintain all UST records at the Station and make them available for inspection to Commission personnel upon request, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
3. As evidenced by Finding of Fact No. 3.b., Mr. Afridi failed to verify proper operation of the Stage II equipment at least once every twelve months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 3.c., Mr. Afridi 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).
5. As evidenced by Finding of Fact No. 3.d., Mr. Afridi failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances as a motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c).
6. As evidenced by Finding of Fact No. 4, Mr. Afridi failed to pay UST fees for TCEQ Petroleum Storage Tank Account No. 0060267U and associated late fees for fiscal year 2005, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702.
7. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Mr. Afridi with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 8, Mr. Afridi has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Afridi and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Afridi for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
10. An administrative penalty in the amount of eight thousand nine hundred twenty-five dollars (\$8,925.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

11. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Afridi is assessed an administrative penalty in the amount of eight thousand nine hundred twenty-five dollars (\$8,925.00) for violations of TEX. WATER CODE chs. 5, 7, and 26, TEX. HEALTH & SAFETY CODE ch. 382, and rules of the TCEQ. The payment of this administrative penalty and Mr. Afridi's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Sohail Afridi dba Lumberton Food Mart; Docket No. 2005-1449-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. Within 30 days after the effective date of this Order, Mr. Afridi shall submit payment for all outstanding fees, in accordance with 30 TEX. ADMIN. CODE § 334.22. Payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Sohail Afridi dba Lumberton Food Mart, Docket No. 2005-1449-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

3. All relief not expressly granted in this Order is denied.

4. The provisions of this Order shall apply to and be binding upon Mr. Afridi. Mr. Afridi is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
5. If Mr. Afridi fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Afridi's failure to comply is not a violation of this Order. Mr. Afridi shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Afridi shall notify the Executive Director within seven days after Mr. Afridi becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Afridi shall be made in writing to the Executive Director. Extensions are not effective until Mr. Afridi receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Afridi if the Executive Director determines that Mr. Afridi has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Sohail Afridi dba Lumberton Food Mart
DOCKET NO. 2005-1449-PST-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF MARK A. CURNUTT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Mark A. Curnutt. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Sohail Afridi dba Lumberton Food Mart” (the “EDPRP”) with the Office of the Chief Clerk on February 13, 2006.

I sent the EDPRP to Mr. Afridi at his last known address on February 13, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Afridi received notice of the EDPRP on February 18, 2006, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Afridi received notice of the EDPRP. Mr. Afridi failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.”



Mark A. Curnutt
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Mark A. Curnutt, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 14 day of March, A.D., 2007.



Notary Stamp

