# EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.:** 2006-1958-PST-E **TCEQ ID:** RN102224888 **CASE NO.:** 31659

**RESPONDENT NAME:** Ahmad B. Goushey

| 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:** 1010 South State Highway 5, McKinney, Collin County

**TYPE OF OPERATION:** Property with underground storage tanks

**SMALL BUSINESS:** X **Yes** ____ **No**

**OTHER SIGNIFICANT MATTERS:** No complaints were received. 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 14, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC 128, R-04, (817) 588-5825; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**Respondent:** Mr. Ahmad B. Goushey, Owner, 1010 South Highway 5, McKinney, Texas 75069

**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:**<br>___ Complaint<br>_X_ Routine<br>___ Enforcement Follow-up<br>___ Records Review<br><br>**Date of Complaint Relating to this Case:** None<br><br>**Date of Investigation Relating to this Case:** September 14, 2006<br><br>**Date of NOE Relating to this Case:** October 30, 2006 (NOE)<br><br>**Background Facts:** This was a routine investigation. Nine violations were documented.<br><br>**WASTE**<br><br>1) Failed to ensure that all USTs are monitored in a manner which will detect a release 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)].<br><br>2) Failed to provide proper release detection for the product piping associated with the UST systems, [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)],<br><br>3) Failed to test the line leak detectors at least once per year for performance and operational reliability, [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].<br><br>4) Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].<br><br>5) Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)]. | **Total Assessed:** $15,000<br><br>**Total Deferred:** $13,800<br>_X_ Expedited Settlement ($3,000)<br><br>_X_ Financial Inability to Pay ($10,800)<br><br>**SEP Conditional Offset:** $0<br><br>**Total Due to General Revenue:** $1,200 (the Respondent has paid $100; the remaining $1,100 to be paid in eleven monthly payments of $100 each)<br><br>The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by the Respondent and determined that the Respondent is unable to pay part of the administrative penalty.<br><br>**Site Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Person Compliance History Classification**<br>__ **High** _X_ **Average** __ **Poor**<br><br>**Major Source:** ___ Yes _X_ No<br><br>**Applicable Penalty Policy:** September 2002 | **Corrective Actions Taken:**<br><br>1) The Executive Director recognized that Mr. Goushey has implemented the following corrective measures at the Station:<br><br>a. On November 29, 2006, the TCEQ Dallas/Fort Worth Regional office received Statistical Inventory Reports verifying that all USTs are being monitored; and<br><br>b. On November 29, 2006, the TCEQ Dallas/Fort Worth Regional office received documentation verifying successful monthly monitoring of product piping.<br><br>**Ordering Provisions:**<br><br>2) The Order will require the Respondent to:<br><br>a. Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48<br><br>b. Within 30 days after the effective date of this Agreed Order:<br><br>i. Begin conducting bimonthly inspections of the impressed current cathodic protection system to ensure that the rectifier and other system components are operating properly, in accordance with 30 TEX. ADMIN. CODE § 334.49;<br><br>ii. Conduct triennial testing of the cathodic protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;<br><br>iii. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 TEX. ADMIN. CODE § 37.815; |

| | | |
|---|---|---|
| 6) Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, [30 TEX. ADMIN. CODE § 37.815(a) and (b)].<br><br>7) Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day, [30 TEX. ADMIN. CODE § 334.48(c)].<br><br>8) 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 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].<br><br>9) Failed to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order(s), and free of defects that would impair the effectiveness of the system, [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. | | iv. Conduct annual testing of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50;<br><br>v. Conduct annual testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and<br><br>vi. Begin maintaining the Stage II vapor recovery system in proper operating condition including by not limited to the correct configuration of the nozzle on all gasoline dispensers, in accordance with 30 TEX. ADMIN. CODE § 115.242 |
| | | |

# Penalty Calculation Worksheet (PCW)

TCEQ

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

| DATES | | | | | |
|---|---|---|---|---|---|
| Assigned | 06-Nov-2006 | | | | |
| PCW | 08-Nov-2006 | Screening | 08-Nov-2006 | EPA Due | |

**RESPONDENT/FACILITY INFORMATION**

| | | | |
|---|---|---|---|
| Respondent | Ahmad B. Goushey | | |
| Reg. Ent. Ref. No. | RN102224888 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor Source |

**CASE INFORMATION**

| | | | |
|---|---|---|---|
| Enf./Case ID No. | 31659 | No. of Violations | 6 |
| Docket No. | 2006-1958-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Enf. Coordinator | Judy Kluge |
| Multi-Media | | EC's Team | Enforcement Team 7 |
| Admin. Penalty $ Limit Minimum | $0 | Maximum | $10,000 |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** *Subtotal 1* $15,000

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

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

Notes: No adjustment due to compliance history.

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

Notes: The respondent does not meet the culpability criteria.

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

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

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

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

**Capped at the Total EB $ Amount*

| | |
|---|---|
| Total EB Amounts | $8,131 |
| Approx. Cost of Compliance | $8,850 |

**SUM OF SUBTOTALS 1-7** Final Subtotal $15,000

**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 $15,000

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty $15,000

**DEFERRAL** 20% Reduction Adjustment -$3,000

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** $12,000

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1958-PST-E **PCW**

**Respondent** Ahmad B. Goushey *Policy Revision 2 (September 2002)*

**Case ID No.** 31659 *PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN102224888

**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)* | 0 | 0% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)* | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)* | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government *(number of counts)* | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were* | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)* | 0 | 0% |
| | | *Please Enter Yes or No* | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

***Adjustment Percentage (Subtotal 2)*** **0%**

### >> Repeat Violator (Subtotal 3)

No

***Adjustment Percentage (Subtotal 3)*** **0%**

### >> Compliance History *Person* Classification (Subtotal 7)

Average Performer

***Adjustment Percentage (Subtotal 7)*** **0%**

### >> Compliance History Summary

**Compliance History Notes** No adjustment due to compliance history.

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

**PCW**

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

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1958-PST-E
**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Enf. Coordinator** Judy Kluge

**Violation Number** 1
**Primary Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2) and (b)(2)(A)(i)(III)
**Secondary Rule Cite(s)** Tex. Water Code § 26.3475(a) and (c)(1)

**Violation Description** Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, no computer system was hooked up to the automatic tank gauging control box. Failed to provide proper release detection for the product piping associated with the UST systems. Specifically, the annual piping tightness tests had not been conducted. Also, failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually.

**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**

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** -$7,500

**Base Penalty Subtotal** $2,500

## Violation Events

Number of Violation Events 1

*mark only one use a small x*

| | |
|---|---|
| *daily* | |
| *monthly* | |
| *quarterly* | x |
| *semiannual* | |
| *annual* | |
| *single event* | |

**Violation Base Penalty** $2,500

One quarterly event is recommended based on documentation of the violation during the September 14, 2006 investigation to the November 8, 2006 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $1,077

## Statutory Limit Test

**Violation Final Penalty Total** $2,500

**This violation Final Assessed Penalty (adjusted for limits)** $2,500

# Economic Benefit Worksheet

**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Violation No.** 1

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Monitoring USTs | $1,500 | 14-Sep-2006 | 29-Nov-2006 | 0.2 | $1 | $21 | $22 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Piping Tightness Tests | $500 | 14-Sep-2006 | 29-Nov-2006 | 0.2 | $5 | n/a | $5 |
| Training/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Recordkeeping | | | | 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**: The estimated cost of monitoring all USTs for releases. The date required is the investigation date and the final date is the date of compliance. Estimated cost to conduct piping tightness tests. 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 |
| Line Leak Detector Testing | $1,000 | 14-Sep-2005 | 14-Sep-2006 | 1.0 | $50 | $1,000 | $1,050 |

**Notes for AVOIDED costs**: Estimated cost to conduct annual line leak detector tests. The date required is one year prior to the investigation date and the final date is the investigation date.

**Approx. Cost of Compliance** $3,000

**TOTAL** $1,077

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1958-PST-E **PCW**

**Respondent** Ahmad B. Goushey *Policy Revision 2 (September 2002)*

**Case ID No.** 31659 *PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN102224888

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Judy Kluge

**Violation Number** 2

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4)

**Secondary Rule Cite(s)** Tex. Water Code § 26.3475(d)

**Violation Description** Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Specifically, bimonthly inspections of the impressed current cathodic protection system were not being conducted. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted.

**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**

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** -$7,500

**Base Penalty Subtotal** $2,500

## Violation Events

Number of Violation Events 1

| mark only one use a small x | |
|---|---|
| daily | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

**Violation Base Penalty** $2,500

One quarterly event is recommended based on documentation of the violation during the September 14, 2006 investigation to the November 8, 2006 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $3,242

## Statutory Limit Test

**Violation Final Penalty Total** $2,500

**This violation Final Assessed Penalty (adjusted for limits)** $2,500

# Economic Benefit Worksheet

**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 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 |
| Inspection/Reporting/Sampling | | | | 0.0 | $0 | n/a | $0 |
| Permit Costs | | | | 0.0 | $0 | n/a | $0 |
| Other (as needed) | | | | 0.0 | $0 | n/a | $0 |
| **Avoided Costs** | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | | |
| Triennial Tests | $1,000 | 14-Sep-2003 | 14-Sep-2006 | 3.0 | $150 | $3,003 | $3,153 |
| Personnel | | | | 0.0 | $0 | $0 | $0 |
| Bimonthly inspections | $500 | 14-Jul-2006 | 14-Sep-2006 | 0.2 | $4 | $85 | $89 |
| 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 DELAYED costs**

**Notes for AVOIDED costs** The estimated amount to conduct bimonthly inspections of the cathodic protection system. The date required is 60 days prior to the September 14, 2006 investigation, and the final date is the investigation date. Avoided cost for completing the triennial test. The date required is three years before the investigation date and the final date is the investigation date.

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

**TOTAL** $3,242

**PCW**

*Policy Revision 2 (September 2002)*

*PCW Revision May 19, 2005*

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1958-PST-E

**Respondent** Ahmad B. Goushey

**Case ID No.** 31659

**Reg. Ent. Reference No.** RN102224888

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Judy Kluge

**Violation Number** 3

**Primary Rule Cite(s)** 30 Tex. Admin. Code § 37.815(a) and (b)

**Secondary Rule Cite(s)**

**Violation Description** Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

**Base Penalty** $10,000

## >> Environmental, Property and Human Health Matrix

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | | | |

OR

**Percent**

## >> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | x | | |

**Percent** 10%

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

**Adjustment** -$9,000

**Base Penalty Subtotal** $1,000

## Violation Events

Number of Violation Events 4

| mark only one (use a small x) | |
|---|---|
| daily | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

**Violation Base Penalty** $4,000

Four single events are recommended for the four USTs at the Station.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $2,730

## Statutory Limit Test

**Violation Final Penalty Total** $4,000

**This violation Final Assessed Penalty (adjusted for limits)** $4,000

# Economic Benefit Worksheet

**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Violation No.** 3

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 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] | $2,600 | 14-Sep-2005 | 14-Sep-2006 | 1.0 | $130 | $2,600 | $2,730 |
| ONE-TIME avoided costs [3] | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Notes for AVOIDED costs | Estimated cost to provide financial assurance for four petroleum USTs (at $650 per tank) for the twelve month period preceding the date of the investigation. The date required is one year prior to the investigation date and the final date is the investigation date. | | | | | | |

**Approx. Cost of Compliance** $2,600

**TOTAL** $2,730

**PCW**

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

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1958-PST-E
**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Enf. Coordinator** Judy Kluge

**Violation Number** 4
**Primary Rule Cite(s)** 30 Tex. Admin. Code § 334.48(c)
**Secondary Rule Cite(s)**
**Violation Description** Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day. Specifically, the Station was combining the information for all of the USTs into one inventory control record and was not gauging the tanks to the nearest one eighth of an inch.

**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**

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** -$7,500

**Base Penalty Subtotal** $2,500

## Violation Events

Number of Violation Events 1

*mark only one use a small x*

| | |
|---|---|
| *daily* | |
| *monthly* | |
| *quarterly* | x |
| *semiannual* | |
| *annual* | |
| *single event* | |

**Violation Base Penalty** $2,500

One quarterly event is recommended based on documentation of the violation during the September 14, 2006 investigation to the November 8, 2006 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $18

## Statutory Limit Test

**Violation Final Penalty Total** $2,500

**This violation Final Assessed Penalty (adjusted for limits)** $2,500

# Economic Benefit Worksheet

**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Violation No.** 4

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 0.0 | $0 | $0 | $0 |
| Engineering/construction | | | | 0.0 | $0 | $0 | $0 |
| Land | | | | 0.0 | $0 | n/a | $0 |
| Record Keeping System | $500 | 14-Sep-2006 | 07-Jun-2007 | 0.7 | $18 | n/a | $18 |
| 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 conduct inventory control for all USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation 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:

Approx. Cost of Compliance: $500

TOTAL: $18

**PCW**

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

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1958-PST-E
**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Enf. Coordinator** Judy Kluge

**Violation Number** 5
**Primary Rule Cite(s)** 30 Tex. Admin. Code § 115.245(2)
**Secondary Rule Cite(s)** 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

| Release | Harm: Major | Moderate | Minor |
|---|---|---|---|
| Actual | | | |
| Potential | x | | |

OR

**Percent** 25%

## >> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---|---|---|---|
| | | | |

**Percent**

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** -$7,500

**Base Penalty Subtotal** $2,500

## Violation Events

Number of Violation Events 1

| mark only one (use a small 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 September 14, 2006 investigation.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $1,050

## Statutory Limit Test

**Violation Final Penalty Total** $2,500

**This violation Final Assessed Penalty (adjusted for limits)** $2,500

# Economic Benefit Worksheet

**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Violation No.** 5

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | | | | 0.0 | $0 | $0 | $0 |
| Buildings | | | | 0.0 | $0 | $0 | $0 |
| Other (as needed) | | | | 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) | | | | | | |
| Annual Testing | $1,000 | 14-Sep-2005 | 14-Sep-2006 | 1.0 | $50 | $1,000 | $1,050 |
| 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 | Estimated cost for annual testing to verify proper operation of the Stage II equipment. The date required is the one year prior to the investigation date and the final date is the investigation date. | | | | | | |

Approx. Cost of Compliance $1,000

TOTAL $1,050

**PCW**

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

**Screening Date** 08-Nov-2006 **Docket No.** 2006-1958-PST-E
**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Enf. Coordinator** Judy Kluge

**Violation Number** 6
**Primary Rule Cite(s)** 30 Tex. Admin. Code § 115.242(3)
**Secondary Rule Cite(s)** Tex. Health & Safety Code § 382.085(b)
**Violation Description** Failed to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the nozzle configuration on all gasoline dispensers was not in compliance with the Gilbarco "CARB" Executive Order for the UST 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**

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

**Base Penalty Subtotal** $1,000

## Violation Events

Number of Violation Events 1

| mark only one (use a small 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 September 14, 2006 investigation to the November 8, 2006 screening date.

## Economic Benefit (EB) for this violation

**Estimated EB Amount** $14

## Statutory Limit Test

**Violation Final Penalty Total** $1,000

**This violation Final Assessed Penalty (adjusted for limits)** $1,000

# Economic Benefit Worksheet

**Respondent** Ahmad B. Goushey
**Case ID No.** 31659
**Reg. Ent. Reference No.** RN102224888
**Media [Statute]** Petroleum Storage Tank
**Violation No.** 6

| Percent Interest | Years of Depreciation |
|---|---|
| 5.0 | 15 |

| Item Description | Item Cost (No commas or $) | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|---|---|---|---|---|---|---|---|
| **Delayed Costs** | | | | | | | |
| Equipment | $250 | 14-Sep-2006 | 06-Jul-2007 | 0.8 | $1 | $13 | $14 |
| 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: Estimated cost to configure approved nozzles on all dispensers. The date required is the investigation date and the final date is the estimated compliance date.

| 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: $250

TOTAL: $14

# Compliance History

| | | | |
|---|---|---|---|
| Customer/Respondent/Owner-Operator: | CN601189509 GOUSHEY, AHMAD B | Classification: AVERAGE BY DEFAULT | Rating: 3.01 |
| Regulated Entity: | RN102224888 Goushey, Ahmad B | Classification: AVERAGE BY DEFAULT | Site Rating: 3.01 |
| ID Number(s): | PETROLEUM STORAGE TANK REGISTRATION | REGISTRATION | 37254 |
| Location: | 1010 S STATE HIGHWAY 5, MCKINNEY, TX, 75069 | Rating Date: September 01 06 | Repeat Violator: NO |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | |
| Date Compliance History Prepared: | November 06, 2006 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | November 06, 2001 to November 06, 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.)

N/A 1 10/30/2006 (509105)

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

| | | |
|---|---|---|
| **IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING AHMAD B. GOUSHEY RN102224888** | §<br>§<br>§<br>§<br>§ | **BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY** |

**AGREED ORDER**
**DOCKET NO. 2006-1958-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 Ahmad B. Goushey ("Mr. Goushey") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Goushey appear before the Commission and together stipulate that:

1. Mr. Goushey owns a property with underground storage tanks ("USTs") at 1010 South State Highway 5 in McKinney, Collin County, Texas (the "Station").

2. Mr. Goushey's four USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

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

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

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

6. An administrative penalty in the amount of Fifteen Thousand Dollars ($15,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed financial documentation submitted by Mr. Goushey and determined that Mr. Goushey is unable to pay part of the administrative penalty. Therefore, Thirteen Thousand Eight Hundred Dollars ($13,800) of the penalty is deferred contingent upon Mr. Goushey's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Goushey fails to timely and satisfactorily comply with all requirements of

this Agreed Order, including the payment schedule, the Executive Director may require Mr. Goushey to pay all or part of the deferred penalty.

Mr. Goushey has paid One Hundred Dollars ($100) of the undeferred administrative penalty. The remaining amount of One Thousand One Hundred Dollars ($1,100) of the administrative penalty shall be payable in eleven monthly payments of One Hundred Dollars ($100) 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. If Mr. Goushey 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 Mr. Goushey to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Goushey 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 Mr. Goushey have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognized that Mr. Goushey has implemented the following corrective measures at the Station:

   a. On November 29, 2006, the TCEQ Dallas/Fort Worth Regional office received Statistical Inventory Reports verifying that all USTs are being monitored; and

   b. On November 29, 2006, the TCEQ Dallas/Fort Worth Regional office received documentation verifying successful monthly monitoring of product piping.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Goushey 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 of the Station, Mr. Goushey is alleged to have:

1. Failed to ensure that all USTs are monitored in a manner which will detect a release 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 September 14, 2006. Specifically, no computer system was hooked up to the automatic tank gauging control box.

2. Failed to provide proper release detection for the product piping associated with the UST systems, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on September 14, 2006. Specifically, the annual piping tightness tests had not been conducted.

3. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on September 14, 2006. Specifically, the line leak detectors had not been performance tested annually.

4. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on September 14, 2006. Specifically, bimonthly inspections of the impressed current cathodic protection system were not being conducted.

5. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on September 14, 2006. Specifically, the triennial test had not been conducted.

6. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on September 14, 2006.

7. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on September 14, 2006. Specifically, the Station was combining the information for all of the USTs into one inventory control record and was not gauging the tanks to the nearest one eighth of an inch.

8. 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 September 14, 2006. Specifically, the Stage II annual system compliance testing had not been successfully completed.

9. Failed to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order(s), and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 14, 2006. Specifically, the nozzle configuration on all gasoline dispensers was not in compliance with the Gilbarco "CARB" Executive Order for the UST system.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Goushey pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Goushey'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: Ahmad B. Goushey, Docket No. 2006-1958-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 Mr. Goushey shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.

   b. Within 30 days after the effective date of this Agreed Order:

      i. Begin conducting bimonthly inspections of the impressed current cathodic protection system to ensure that the rectifier and other system components are operating properly, in accordance with 30 TEX. ADMIN. CODE § 334.49;

      ii. Conduct triennial testing of the cathodic protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49;

iii. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 TEX. ADMIN. CODE § 37.815;

iv. Conduct annual testing of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50;

v. Conduct annual testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and

vi. Begin maintaining the Stage II vapor recovery system in proper operating condition including by not limited to the correct configuration of the nozzle on all gasoline dispensers, in accordance with 30 TEX. ADMIN. CODE § 115.242.

c. 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 Nos. 2.a. through 2.b.vi.

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:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Goushey. Mr. Goushey 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 Mr. Goushey 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, Mr. Goushey's failure to comply is not a violation of this Agreed Order. Mr. Goushey shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Goushey shall notify the Executive Director within seven days after Mr. Goushey 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 Mr. Goushey shall be made in writing to the Executive Director. Extensions are not effective until Mr. Goushey 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 Mr. Goushey 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 Mr. Goushey, or three days after the date on which the Commission mails notice of the Order to Mr. Goushey, 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

_____ 8/9/2007
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.

_____ 7/13/07
Signature Date

AHMAD GOUSHEY _____
Name (Printed or typed) Title
Authorized Representative of
Ahmad B. Goushey

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.