

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0616-PST-E **TCEQ ID:** RN101431526 **CASE NO.:** 35744

RESPONDENT NAME: ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2

| | | |
|--|---|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input 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: Metro Food 2, 10096 South Gessner Drive, Houston, Harris 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 September 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Wallace Myers, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-6580; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Mahboob Ali, Owner, Metro Food 2, 10096 South Gessner Drive, Houston, Texas 77071-1012 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

TEXAS
 COMMISSION
 ON ENVIRONMENTAL
 QUALITY
 2008 SEP 22 AM 11:14
 CHIEF CLERKS OFFICE

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 7, 2008</p> <p>Date of NOV/NOE Relating to this Case: March 10, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failure to provide release detection for the pressurized piping associated with the USTs. Specifically, the annual tightness test had not been conducted [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>3) Failure to have the line leak detectors tested 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)].</p> <p>4) Failure to maintain all required Stage II records at the Station and make them immediately available for review [30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$4,246</p> <p>Total Deferred: \$849 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$201 (remaining \$3,196 due in 17 monthly payments of \$188 each)</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input 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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Tested the line leak detectors for performance and operational reliability on February 7, 2008 with passing results;</p> <p>b. Successfully conducted the required annual piping tightness test on February 7, 2008; and</p> <p>c. Began maintaining the required Stage II records at the Station on February 19, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement a release detection method for all USTs at the Station; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> |

Additional ID No(s): PST 35391



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

| | | | | | | |
|-------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 17-Mar-2008 | Screening | 28-Mar-2008 | EPA Due | |
| | PCW | 2-Apr-2008 | | | | |

| | | | |
|--|---|--------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2 | | |
| Reg. Ent. Ref. No. | RN101431526 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

| | | | | |
|-------------------------|------------------------|-------------------|--------------------|----------|
| CASE INFORMATION | | | | |
| Enf./Case ID No. | 35744 | No. of Violations | 2 | |
| Docket No. | 2008-0616-PST-E | Order Type | 1660 | |
| Media Program(s) | Petroleum Storage Tank | Enf. Coordinator | Wallace Myers | |
| Multi-Media | | EC's Team | Enforcement Team 6 | |
| 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 Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Subtotal 5

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

Notes

Total EB Amounts Subtotal 6
Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 28-Mar-2008

Docket No. 2008-0616-PST-E

PCW

Respondent ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2

Policy Revision 2 (September 2002)

Case ID No. 35744

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101431526

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

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 submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| <i>Please Enter Yes or No</i> | | | |
| 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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

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

Screening Date 28-Mar-2008 **Docket No.** 2008-0616-PST-E **PCW**
Respondent ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2 *Policy Revision 2 (September 2002)*
Case ID No. 35744 *PCW Revision March 8, 2008*

Reg. Ent. Reference No. RN101431526
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Wallace Myers

Violation Number

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

Violation Description

Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide release detection for the pressurized piping associated with the USTs. Specifically, the annual piping tightness test had not been conducted. Also, failed to have the line leak detectors tested at least once per year for performance and operational reliability.

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 type="text" value="x"/> | <input type="text"/> | <input type="text"/> | |

OR

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|----------------------|---------------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |

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

Violation Events

Number of Violation Events Number of violation days

| | | |
|-------------------------|--------------|--------------------------------|
| mark only one with an x | daily | <input type="text"/> |
| | monthly | <input type="text"/> |
| | quarterly | <input type="text" value="x"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |

Violation Base Penalty

One quarterly event is recommended based on documentation of the violation during the February 7, 2008 investigation to the March 28, 2008 screening date.

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 ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2
Case ID No. 35744
Reg. Ent. Reference No. RN101431526
Media 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 | | | | 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 | 7-Feb-2008 | 7-Nov-2008 | 0.8 | \$56 | n/a | \$56 |

Notes for DELAYED costs

Estimated cost to monitor all USTs for releases. The Date Required is the date of the investigation and the Final Date is the expected 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) | \$1,000 | 7-Feb-2007 | 7-Feb-2008 | 1.9 | \$96 | \$1,000 | \$1,096 |

Notes for AVOIDED costs

Estimated avoided cost to perform annual piping tightness and line leak detector tests. The Date Required is one year prior to the investigation and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$2,500

TOTAL

\$1,152

| | | | | |
|--------------------------------|---|---------------------|-----------------|---|
| Screening Date | 28-Mar-2008 | Docket No. | 2008-0616-PST-E | PCW |
| Respondent | ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2 | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 35744 | | | <i>PCW Revision March 8, 2008</i> |
| Reg. Ent. Reference No. | RN101431526 | | | |
| Media [Statute] | Petroleum Storage Tank | | | |
| Enf. Coordinator | Wallace Myers | | | |
| Violation Number | 2 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 115.246(5) and Tex. Health & Safety Code § 382.085(b) | | | |
| Violation Description | Failed to maintain all required Stage II records at the Station and make them immediately available for review. | | | |
| | | Base Penalty | \$10,000 | |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|----------------------|----------------------|----------------------|----------------------|--|
| OR | | Harm | | | |
| | Release | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="0%"/> |
| 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 | 100% of the rule requirement was not met. | | | | |

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | | |
|--------------------------------|--------------|---|
| <i>mark only one with an 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 <input type="text" value="\$1"/> | Violation Final Penalty Total <input type="text" value="\$1,213"/> |
| | This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,213"/> |

Economic Benefit Worksheet

Respondent ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2
Case ID No. 35744
Reg. Ent. Reference No. RN101431526
Media Petroleum Storage Tank
Violation No. 2

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

| | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|
|--|-----------|---------------|------------|-----|----------------|---------------|-----------|

Item Description 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 | \$500 | 7-Feb-2008 | 19-Feb-2008 | 0.0 | \$1 | n/a | \$1 |
| 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 of maintaining required records at the Station. The Date Required is the date of the investigation and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Compliance History

| | | | |
|---|--|-----------------------|---------------------|
| Customer/Respondent/Owner-Operator: | CN603324039 ESHAAN INVESTMENTS, L.L.C. | Classification: HIGH | Rating: 0.00 |
| Regulated Entity: | RN101431526 METRO FOOD 2 | Classification: HIGH | Site Rating: 0.00 |
| ID Number(s): | PETROLEUM STORAGE TANK REGISTRATION | REGISTRATION | 35391 |
| Location: | 10096 S GESSNER DR, HOUSTON, TX, 77071 | Rating Date: 9/1/2007 | Repeat Violator: NO |
| TCEQ Region: | REGION 12 - HOUSTON | | |
| Date Compliance History Prepared: | April 18, 2008 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | April 18, 2003 to April 18, 2008 | | |

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

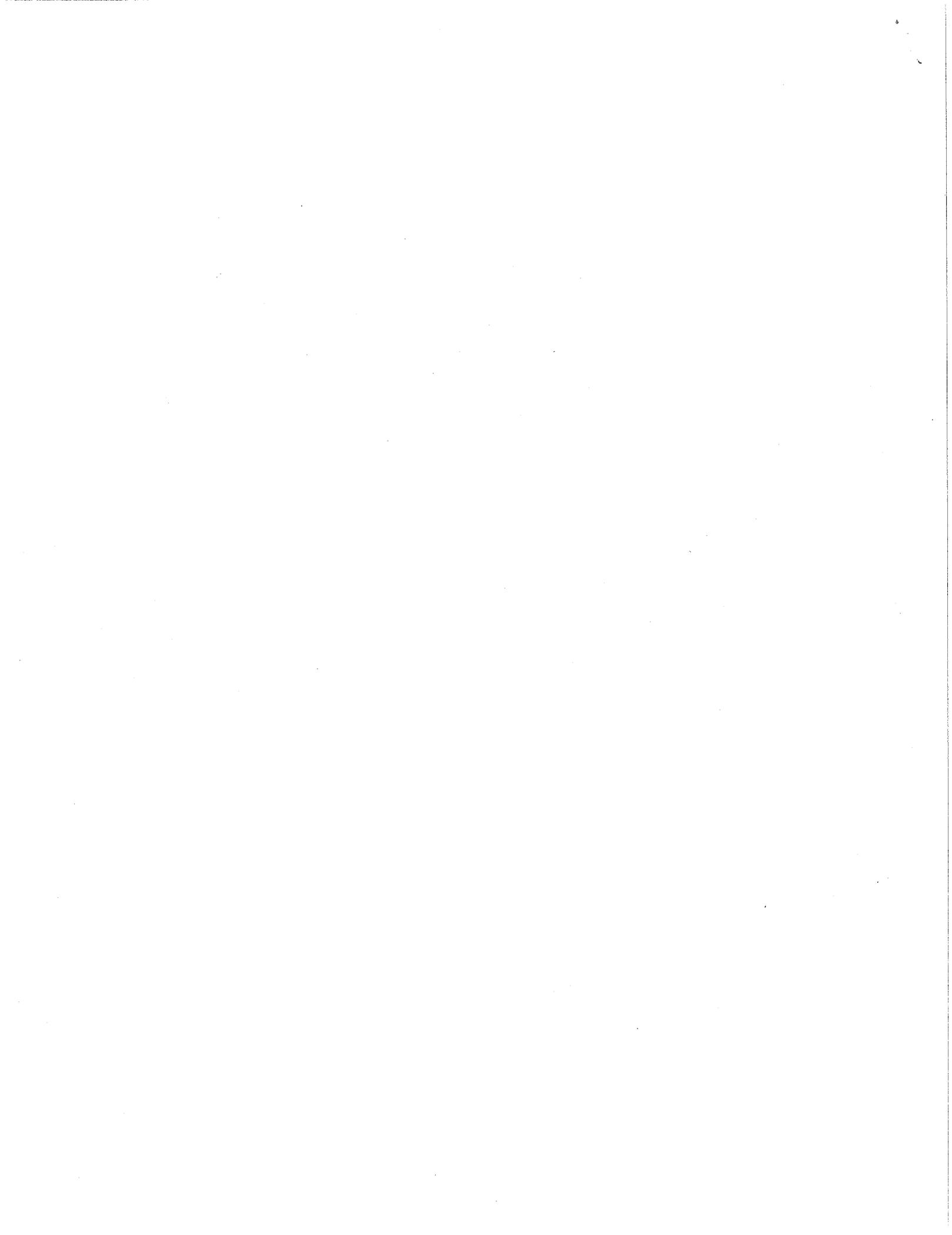
Name: Shontay Wilcher Phone: (512) 239-2136

Site Compliance History Components

- | | |
|--|------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 12/30/2003 (258414)
 - 2 03/10/2008 (636467)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - 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



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2008 SEP 22 AM 11:14

CHIEF CLERKS OFFICE

IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ESHAAN INVESTMENTS, L.L.C. DBA
METRO FOOD 2
RN101431526

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§
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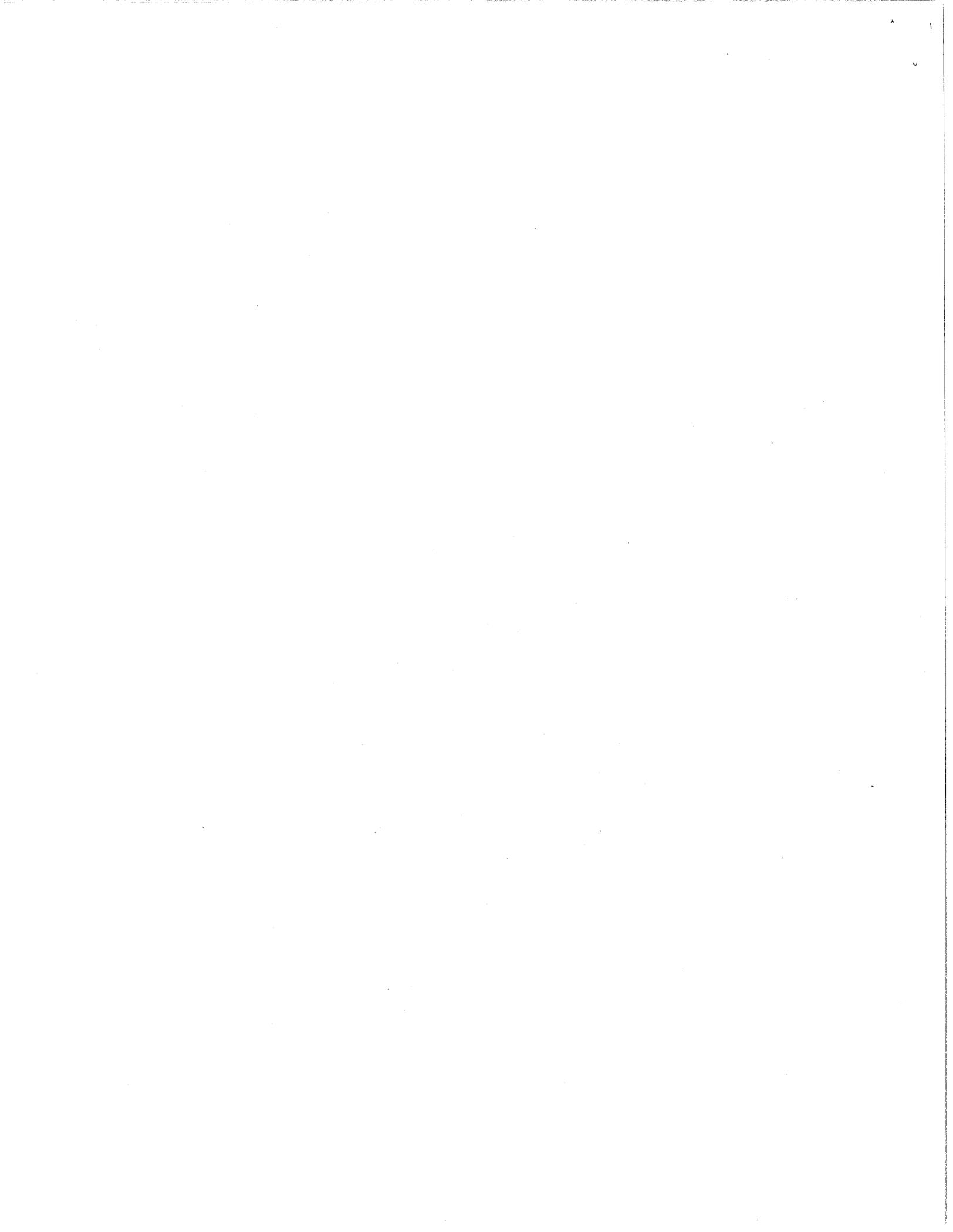
BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0616-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 ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2 ("the Respondent") 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 the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 10096 South Gessner Drive in Houston, Harris County, Texas (the "Station").
2. The Respondent's three underground storage tanks ("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 the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 15, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Four Thousand Two Hundred Forty-Six Dollars (\$4,246) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred One Dollars (\$201) of the administrative penalty and Eight Hundred Forty-Nine Dollars (\$849) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Three Thousand One Hundred Ninety-Six Dollars (\$3,196) of the administrative penalty shall be payable in 17 monthly payments of One Hundred Eighty-Eight Dollars (\$188) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent 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 the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Tested the line leak detectors for performance and operational reliability on February 7, 2008 with passing results;
 - b. Successfully conducted the required annual piping tightness test on February 7, 2008; and
 - c. Began maintaining the required Stage II records at the Station on February 19, 2008.
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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.



II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on February 7, 2008.
2. Failed to provide release detection for the pressurized piping associated with the USTs, 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 February 7, 2008. Specifically, the annual tightness test had not been conducted.
3. Failed to have the line leak detectors tested 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 February 7, 2008.
4. Failed to maintain all required Stage II records at the Station and make them immediately available for review, in violation of 30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 7, 2008.

III. DENIALS

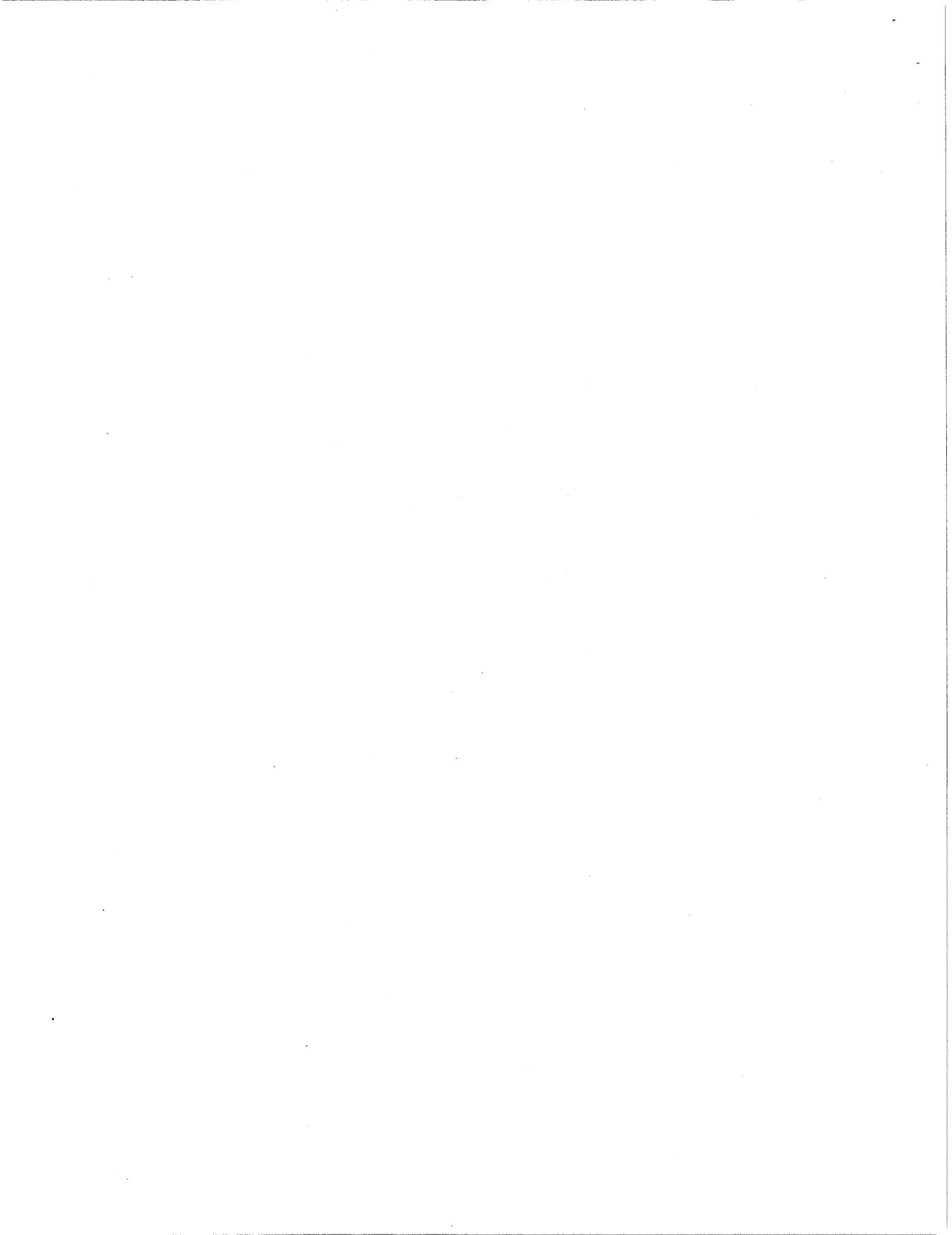
The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2, Docket No. 2008-0616-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 the Respondent shall undertake the following technical requirements:



- a. Within 30 days after the effective date of this Agreed Order, implement a release detection method for all USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

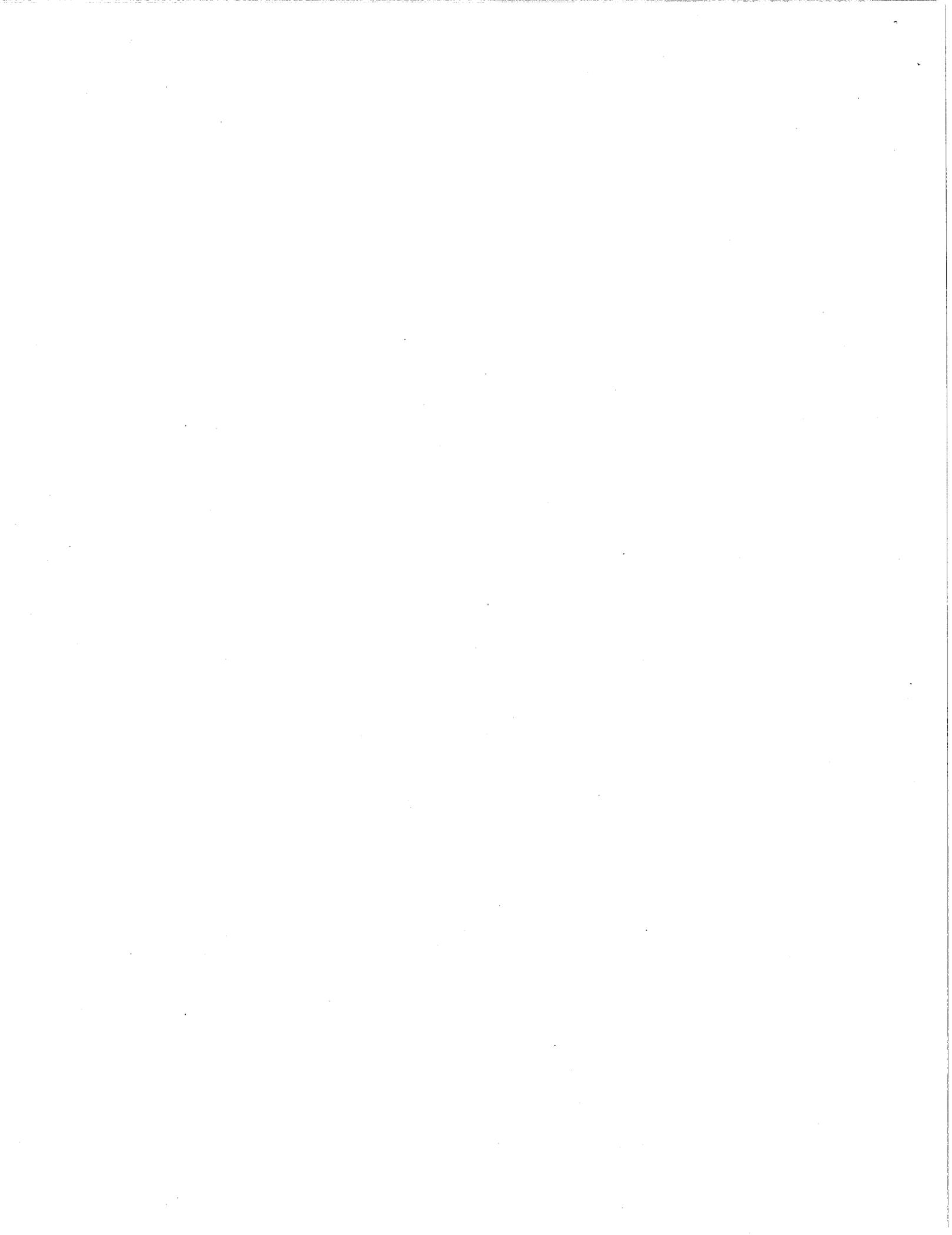
The certification shall be submitted to:

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

with a copy to:

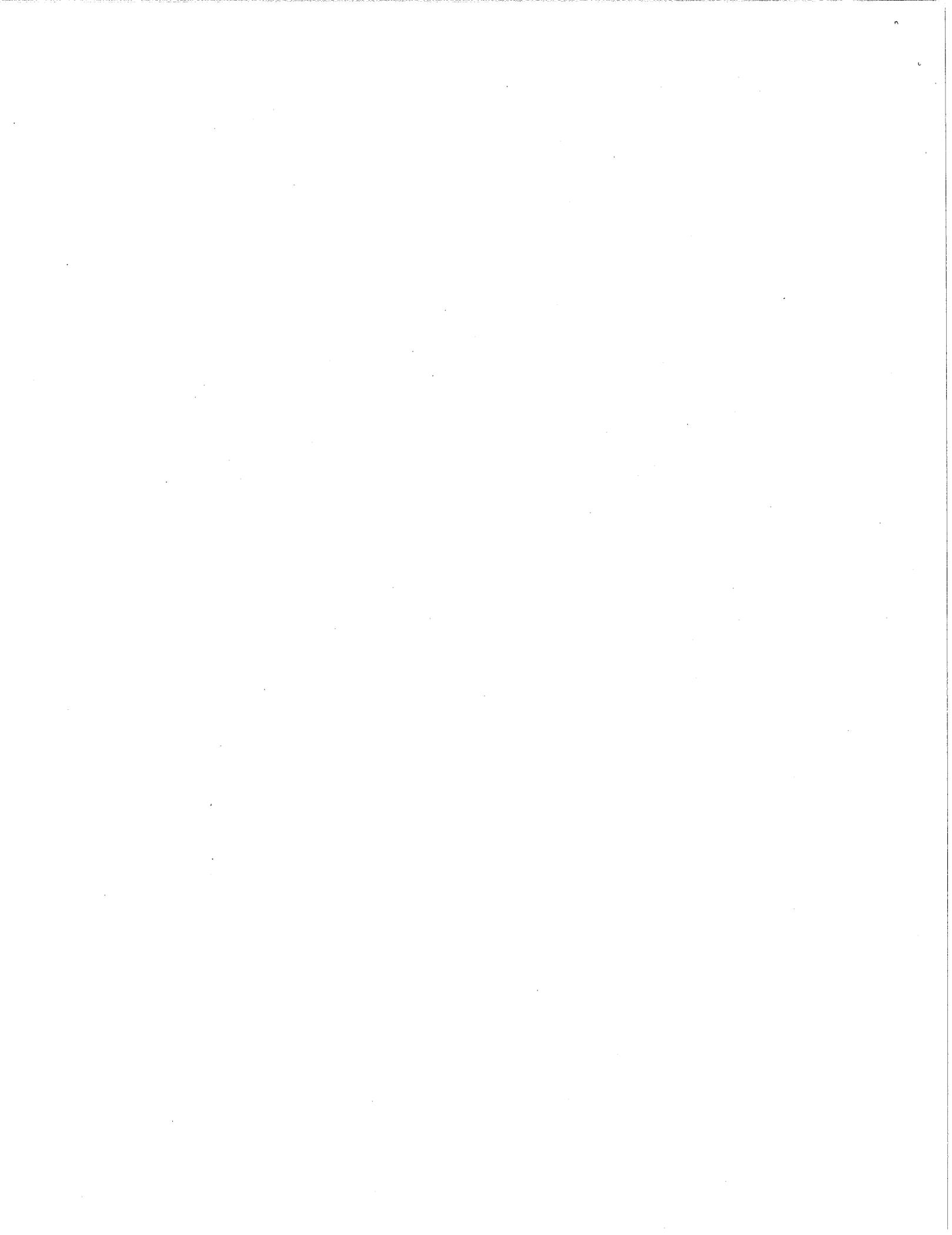
Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be



made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.



SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

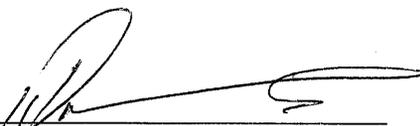
9/10/2008
Date

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 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

07/09/08
Date

MAHBOOB ALI

Name (Printed or typed)

owner

Title

Authorized Representative of
ESHAAN INVESTMENTS, L.L.C. dba Metro Food 2

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.

