

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1054-PST-E TCEQ ID NO.: RN101884286 CASE NO.: 34100
RESPONDENT NAME: MICHAEL NASSIF

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

SITE WHERE VIOLATION(S) OCCURRED: 7502 Synott Road, Houston, Harris County

TYPE OF OPERATION: Facility that provided retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There are no other pending enforcement actions regarding this facility.

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 July 7, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Michael Nassif, Owner, 11839 Mighty Redwood Drive, Houston, Texas 77059

Respondent's Attorney: Mr. Anthony D. Caridi, Attorney, 14202 Champion Forest Drive, Houston, Texas 77069

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 type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 5, 2007</p> <p>Date of NOE Relating to this Case: June 15, 2007</p> <p>Background Facts:</p> <p>The EDPRP was filed on October 15, 2007. The Respondent filed an answer to the EDPRP requesting a hearing on October 30, 2007. The case was referred to the State Office of Administrative Hearings on December 4, 2007. The TCEQ and the Respondent reached an agreement and the agency received a signed Agreed Order on April 28, 2008.</p> <p>PST:</p> <p>1) 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)].</p> <p>2) Failed to have 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)].</p> <p>3) Failed to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>	<p>Total Assessed: \$5,145</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$245/\$4,900</p> <p>The Respondent has paid \$245 of the administrative penalty. The remaining amount of \$4,900 shall be payable in 35 monthly payments of \$140 each.</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>Corrective Action Taken:</p> <p>The Executive Director recognizes that the Respondent has permanently removed all underground storage tanks at the Facility.</p> <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>Within 30 days:</p> <p>a. Submit an amended UST registration to reflect the current ownership and operational status of the UST system; and</p> <p>b. Submit written certification to demonstrate compliance with these Ordering Provisions.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision June 26, 2007

TCEQ	Assigned	25-Jun-2007			
	PCW	13-Mar-2008	Screening	2-Jul-2007	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	Michael Nassif		
Reg. Ent. Ref. No.	RN101884286		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34100	No. of Violations	2
Docket No.	2007-1054-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Elvia Maske
Multi-Media		EC's Team	EnforcementTeam 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1
 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 47% Enhancement **Subtotals 2, 3, & 7** \$1,645

Notes Enhancement due to one prior 1660 Order, one Default Order, and one NOV for dissimilar violations.

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

Notes The respondent does not meet the culpability criteria.

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

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	X	(mark with x)
Notes	The respondent does not meet the good faith criteria.	

Total EB Amounts \$1,192 0% Enhancement* **Subtotal 6** \$0

Approx. Cost of Compliance \$1,600 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,145**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount **\$5,145**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,145**

DEFERRAL 0% **Reduction** **Adjustment** \$0

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

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$5,145**

Screening Date 2-Jul-2007	Docket No. 2007-1054-PST-E	PCW
Respondent Michael Nassif		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 34100		<i>PCW Revision June 26, 2007</i>
Reg. Ent. Reference No. RN101884286		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Elvia Maske		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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	1	25%
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) 47%

>> Repeat Violator (Subtotal 3)

No	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	Enhancement due to one prior 1660 Order, one Default Order, and one NOV for dissimilar violations.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 47%

Screening Date 2-Jul-2007	Docket No. 2007-1054-PST-E	PCW		
Respondent Michael Nassif		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 34100		<i>PCW Revision June 26, 2007</i>		
Reg. Ent. Reference No. RN101884286				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Elvia Maske				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4), and 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. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at least once every three years.			
	Base Penalty	<input type="text" value="\$10,000"/>		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
	Percent	<input type="text" value="25%"/>		
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Percent	<input type="text" value="0%"/>		
Matrix Notes	Human health or the environment could be exposed to significant amounts of pollutants which may exceed levels that are protective of human health and environmental receptors.			
	Adjustment	<input type="text" value="\$7,500"/>		
		<input type="text" value="\$2,500"/>		
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	
		<input type="text" value="27"/>		
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty	
	monthly	<input type="text" value="x"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
	Violation Base Penalty		<input type="text" value="\$2,500"/>	
One monthly event is recommended based on documentation of the violation during the June 5, 2007 investigation date to the July 2, 2007 screening date.				
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$1,188"/>	Violation Final Penalty Total	<input type="text" value="\$3,675"/>	
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$3,675"/>	

Economic Benefit Worksheet

Respondent: Michael Nassif
Case ID No.: 34100
Reg. Ent. Reference No.: RN101884286
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)				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	\$500	5-Apr-2007	5-Jun-2007	0.2	\$4	\$84	\$88
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	4-May-2006	5-Jun-2007	2.0	\$100	\$1,000	\$1,100
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to conduct bimonthly inspections of the cathodic protection system. The date required is 60 days prior to the investigation date and final date is the investigation date. Avoided cost for completing the triennial test. The date required is date of ownership change and the final date is the investigation date.

Approx. Cost of Compliance

\$1,500

TOTAL

\$1,188

Screening Date 2-Jul-2007	Docket No. 2007-1054-PST-E	PCW
Respondent Michael Nassif	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34100	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN101884286		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Elvia Maske		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	30 Tex. Admin. Code § 334.7(d)(3)	
Violation Description	Failed to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, registration was not updated to reflect the current out-of-service status of the UST system.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>		<input type="text"/>
				Percent <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				<input type="text" value="\$9,000"/>	

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="27"/>	Number of violation days
<i>mark only one with an x</i>		
daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$1,000"/>
monthly	<input type="text"/>	
quarterly	<input type="text"/>	
semiannual	<input type="text"/>	
annual	<input type="text"/>	
single event	<input checked="" type="checkbox"/>	
One single event is recommended based on documentation of the violation during the June 5, 2007 investigation.		

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$4"/>	Violation Final Penalty Total <input type="text" value="\$1,470"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,470"/>	

Economic Benefit Worksheet

Respondent: Michael Nassif
Case ID No.: 34100
Reg. Ent. Reference No.: RN101884286
Media: 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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$100	5-Jun-2007	31-Dec-2007	0.6	\$0	\$4	\$4
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 update the UST registration. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$100	TOTAL	\$4
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Compliance History

Customer/Respondent/Owner-Operator:	CN602676207 NASSIF, MICHAEL	Classification: AVERAGE	Rating: 15.37
Regulated Entity:	RN101884286 SONIC QUICK STOP	Classification: AVERAGE	Site Rating: 30.75
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	40823
Location:	7502 SYNOTT RD, HOUSTON, TX, 77083	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	July 11, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 11, 2002 to July 11, 2007		

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

Name: Elvia Maske Phone: (512) 239-0789

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? | <u>Nassif, Michael</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Jumbo, Joshua H</u> |
| 5. When did the change(s) in ownership occur? | <u>May 4, 2006</u> |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|--|----------------------------|
| Effective Date: 08/02/2002 | ADMINORDER 2001-1126-PST-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 115, SubChapter C 115.245(2) | |
| 5C THC Chapter 382, SubChapter A 382.085(b) | |
| Description: Failure to perform annual pressure decay compliance testing of Stage II Vapor Recovery System (VRS) for the previous 24 month period. | |
| Effective Date: 04/14/2006 | ADMINORDER 2004-1824-PST-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G] | |
| 30 TAC Chapter 37, SubChapter I 37.815(b)[G] | |
| Description: Failure to demonstrate 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 the petroleum USTs at the Facility. | |
- 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 | 02/25/2003 | (276326) |
| 2 | 06/12/2003 | (38124) |
| 3 | 11/04/2004 | (290900) |
| 4 | 06/20/2007 | (564885) |
| 5 | 06/20/2007 | (517232) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | |
|--|--------------------------|
| Date: 02/25/2003 | (276326) |
| Self Report? NO | Classification: Moderate |
| Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G] | |
| 30 TAC Chapter 37, SubChapter I 37.815(b)[G] | |
| Description: Failure to provide acceptable financial assurance | |
- 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
MICHAEL NASSIF,
RN101884286

§
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§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1054-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Michael Nassif ("Mr. Nassif") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Nassif, represented by Anthony D. Caridi of the law firm of Anthony D. Caridi, Attorney and Counselor at Law, appear before the Commission and together stipulate that:

1. Mr. Nassif owns a facility that provided retail sales of gasoline located at 7502 Synott Road, Houston, Harris County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Nassif agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Nassif is subject to the Commission's jurisdiction.
4. Mr. Nassif received notice of the violations alleged in Section II ("Allegations") on or about June 20, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Nassif of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of five thousand one hundred forty-five dollars (\$5,145.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Nassif has paid two hundred forty-five dollars (\$245.00) of the

administrative penalty. The remaining amount of four thousand nine hundred dollars (\$4,900.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of one hundred forty dollars (\$140.00) 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 Mr. Nassif fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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. Nassif to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Nassif to timely and satisfactorily comply with all of 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. Nassif 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, in response to this enforcement action, Mr. Nassif has permanently removed all underground storage tanks ("USTs") at the Facility by a licensed professional.
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. Nassif 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

Mr. Nassif is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d) by failing 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, as documented during an investigation conducted on June 5, 2007.
2. 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d) by failing 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, as documented during an investigation conducted on June 5, 2007.
3. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, registration was not updated to reflect the current out-of-service status of the UST system, as documented during an investigation conducted on June 5, 2007.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Nassif pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Nassif'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Michael Nassif, Docket No. 2007-1054-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. Mr. Nassif shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Mr. Nassif shall:
- i. Submit an amended UST registration to reflect the current ownership and operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7(d) to:

Registration and Reporting Section
Permitting & Remediation Support Division, MC-138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Submit written certification as described below, and include detailed supporting documentation including copies of records to demonstrate compliance with Ordering Provision No. 2.a.i. 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:

Nicole Bealle
Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Ave., Ste. H
Houston, Texas 77023-1452

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Nassif. Mr. Nassif is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Mr. Nassif 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. Nassif's failure to comply is not a violation of this Agreed Order. Mr. Nassif shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Nassif shall notify the Executive Director within seven days after Mr. Nassif 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. Nassif shall be made in writing to the Executive Director. Extensions are not effective until Mr. Nassif 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. Nassif 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Nassif, or three days after the date on which the Commission mails notice of the Order to Mr. Nassif, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Michael Nassif
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Bergeron Perdue

7/10/2008

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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.

Michael Nassif
Signature

4-28-2008
Date

MICHAEL NASSIF
Name (Printed or typed)
Michael Nassif

Owner-REP
Title