

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2004-0089-PST-E TCEQ ID: RN102834223 CASE NO.: 33010
RESPONDENT NAME: MOHAMMAD K. AROUD DBA JONES MART SHELL**

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 11702 Jones Road in Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional 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 May 12, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-0019
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Trina Grieco, Waste Enforcement Section, MC R-12, (210) 403-4006

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

Respondent: Mr. Mohammad Aroud, Owner, Mohammad K. Aroud dba Jones Mart Shell, 11702 Jones Road, Houston, Texas 77070

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case:</p> <p>Dates of Investigation Relating to this Case: January 30, 2003, June 12, 2003, November 19, 2003, January 13, 2004 and April 28, 2005</p> <p>Date of NOEs Relating to this Case: June 12, 2003, March 18, 2004, and June 16, 2004 (NOEs)</p> <p>Background Facts:</p> <p>The EDPRP was filed on September 7, 2004; the EDFARP was filed on September 17, 2007; the EDSARP was filed January 29, 2008; and the EDTARP was filed March 12, 2008 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." Pursuant to 30 TEX. ADMIN. CODE § 70.104(a), the respondent received notice of the EDPRP, EDFARP, EDSARP, and EDTARP. The Respondent has failed to file an answer to the EDPRP, EDFARP, EDSARP, or EDTARP, has failed to request a hearing, and has failed to schedule a settlement conference.</p> <p>PST</p> <p>1. Failed to monitor USTs 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 (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2. Failed to ensure that the UST registration and self-certification form was fully and accurately completed, and that it was submitted to the agency in a timely manner, and failed to register the USTs with the agency on authorized agency forms [30 TEX. ADMIN. CODE § 334.8(c)(4)(B) and 7(a)(1) and TEX. WATER CODE § 26.346(a)].</p> <p>3. Failed to demonstrate 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)(1) and (b)(1)].</p>	<p>Total Assessed: \$ 136,070</p> <p>Total Deferred: \$0</p> <p>Total Due to General Revenue: \$136,070</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input 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 Actions Taken:</p> <p>The Respondent is no longer the owner or operator. There are no Technical Requirements.</p>

4. Failed to make available to a common carrier a valid, current delivery certificate before delivery of a regulated substance into the UST(s) was accepted [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].

5. Failed to conduct inventory control at a retail facility, regardless of the chosen method of release detection [30 TEX. ADMIN. CODE § 334.48(c)].

6. Failed to conduct a site check upon the request of the TCEQ when environmental contamination is the basis for suspecting a release. [30 TEX. ADMIN. CODE §§ 334.73 and 334.74].

7. Failed to pay annual UST registration and associated late fees for Financial Administration Account No. 0060690U, UST ID No. 33010, for fiscal years 2001 through 2004 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE ch. 5].

8. Failed to maintain all required Stage II records at the Station and make immediately available for review upon request by authorized representatives of the TCEQ [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

9. Failed to monitor pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system [30 TEX. ADMIN. CODE § 334.50(b)(2) and 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	29-Aug-2005	Screening	23-Sep-2005	EPA Due	
	PCW	16-Jan-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mohammed Aroud dba Jones Mart Shell
Reg. Ent. Ref. No.	RN102834223
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	12096	No. of Violations	2
Docket No.	2004-0089-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Trina Grieco
Multi-Media		EC's Team	Enforcement Team 5
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 2% Enhancement Subtotals 2, 3, & 7

Notes

Culpability No 0% Enhancement Subtotal 4

Notes

Good Faith Effort to Comply 0% Reduction Subtotal 5

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes

Economic Benefit 0% Enhancement* Subtotal 6

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

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

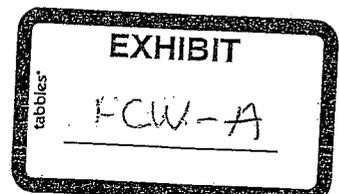
STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL 0% Reduction Adjustment

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

Notes

PAYABLE PENALTY



Screening Date 23-Sep-2005

Docket No. 2004-0089-PST-E

PCW

Respondent Mohammed Aroud dba Jones Mart Shell

Policy Revision 2 (September 2002)

Case ID No. 12096

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102834223

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Other	<i>Please Enter Yes or No</i>		
	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> **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 23-Sep-2005

Docket No. 2004-0089-PST-E

PCW

Respondent Mohammed Aroud dba Jones Mart Shell

Policy Revision 2 (September 2002)

Case ID No. 12096

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102834223

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number

1

Primary Rule Cite(s)

30 Tex. Admin. Code § 115.246(7)(A)

Secondary Rule Cite(s)

Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain all required Stage II records at the Station and make immediately available for review upon request by authorized representatives of the TCEQ. Specifically, the respondent failed to maintain a copy of the CARB Executive Order for the Stage II system installed, a daily inspection log for all Stage II equipment, a maintenance log for any Stage II related repairs and/or replacements, monthly inspection of pressure/vacuum relief valves and Stage I dry breaks, and a record of any and all test results that have taken place at the Station, including annual pressure decay test results and certificate of Stage II training for the Station representative.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> 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 1

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

Violation Base Penalty \$1,000

One single event is recommended based upon the date of the investigation conducted on April 28, 2005.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,020

This violation Final Assessed Penalty (adjusted for limits) \$1,020

Economic Benefit Worksheet

Respondent Mohammed Aroud dba Jones Mart Shell
 Case ID No. 12096
 Reg. Ent. Reference No. RN102834223
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$1,000	28-Apr-2005	10-May-2005	0.0	\$2	n/a	\$2
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. The Date Required is the investigation date and the Final Date is the date of compliance.

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

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 23-Sep-2005

Docket No. 2004-0089-PST-E

PCW

Respondent Mohammed Aroud dba Jones Mart Shell

Policy Revision 2 (September 2002)

Case ID No. 12096

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102834223

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(2) and 334.50(b)(2)(A)(i)(III)

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

Violation Description

Failed to monitor pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. Specifically, the respondent did not conduct annual piping tightness test. Failed to have the line leak detectors tested at least once per year for performance and operational reliability. Specifically, the respondent did not conduct a line leak detector test.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to ensure monitoring of piping associated with the UST system and annual line leak detectors for releases could result in the release of significant amounts of pollutants that would exceed levels that are protective of human health or the environment.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$2,500

One monthly event is recommended for the period of the April 28, 2005 investigation date to the May 10, 2005 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,550

This violation Final Assessed Penalty (adjusted for limits) \$2,550

Economic Benefit Worksheet

Respondent Mohammed Aroud dba Jones Mart Shell
 Case ID No. 12096
 Reg. Ent. Reference No. RN102834223
 Media [Statute] Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,200	28-Apr-2005	10-May-2005	0.0	\$0	\$3	\$3
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 costs to monitor monthly the piping associated with the UST system and annual line leak detectors for releases. The Date Required is the investigation date and the Final Date is the date of compliance.

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

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September, 2002) PCW Revision May 17, 2004

DATE S:

PCW Screening Priority Due EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Additional ID No(s)
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Case Priority Enf. Coordinator
 Media Program(s) EC's Team
 Multi-Media
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal:1

ADJUSTMENTS (#) TO SUBTOTAL

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

Compliance History Subtotal:2,3,6,7

Notes

Culpability 0% Enhancement Subtotal:4

Notes

Good Faith Effort to Comply Subtotal:5

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

Notes

Economic Benefit Subtotal:6

Total EB Amounts	\$52	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,000	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

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

Notes

Final Penalty Amount

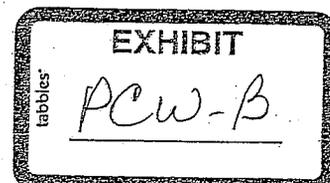
STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY



Screening Date 04-Apr-2004 Docket No. 2004-0089-PST-E
 Respondent Mohammad Aroud dba Jones Mart Shell
 Case ID No: Case No. 12096
 Reg. Ent. Reference No. RN102834223
 Additional ID No(s): PST ID No. 33010
 Media Statute: Petroleum Storage Tank
 Enf. Coordinator: Kent Heath
 Site Address: Located at 11702 Jones Road, Houston, Harris

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 disclosed)	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%
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%

Please Enter Yes or No

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 compliance history score, averaged by default.

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

Screening Date 04-Apr-2004 Docket No. 2004-0089-PST-E **PCW**
 Respondent Mohammad Aroud dba Jones Mart Shell Policy Revision 2 (September 2002)
 Case ID No. Case No. 12096 PCW Revision May 17, 2004
 Reg. Ent. Reference No. RN102834223
 Additional ID No(s) PST ID No. 33010
 Media [Statute] Petroleum Storage Tank
 Enf. Coordinator Kent Heath
 Violation Number
 Primary Rule Cite(s)
 Secondary Rule Cite(s)
 Violation Description
 Base Penalty

Environmental Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="50%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$52"/>	Violation Final Penalty Total <input type="text" value="\$15,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$15,000"/>	

Economic Benefit Worksheet

Respondent: Mohammad Aroud dba Jones Mart Shell
 Case ID No: Case No. 12096
 Reg. Em. Reference No: RN102834223
 Additional ID No(s): PST ID No. 33010
 Media/Statute: Petroleum Storage Tank
 Violation No: 1

Percent Interest	5.0	Years of Depreciation	15
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Item Description	Item Cost	Date Required	Final Date	Years	Interest Saved	One-time 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		\$0
Record Keeping System				0.0	\$0		\$0
Training/Sampling	\$1,000	19-Nov-2003	04-Dec-2004	1.0	\$52		\$52
Remediation/Disposal				0.0	\$0		\$0
Permit Costs				0.0	\$0		\$0
Other (as needed)				0.0	\$0		\$0

Notes for DELAYED costs

Estimated cost to conduct a site check.

Item Description	Item Cost	Date Required	Final Date	Years	Interest Saved	One-time Costs	EB Amount
AVOIDED COSTS							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

179359502002232

Compliance History

Customer/Respondent/Owner-Operator:	CN601195324 AROUD, MOHAMMAD K	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN102834223 JONES MART SHELL	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	33010
Location:	11702 JONES RD, HOUSTON, TX, 77070	Rating Date: 9/1/03	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	January 27, 2004		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 27, 1999 to January 27, 2004		

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

Name: Trina Grieco Phone: (713) 767-3607

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 dates of investigations.
1 06/11/2003
2 01/17/2003
- E. Written notices of violations (NOV).
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

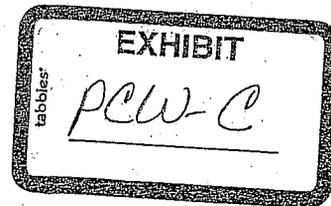
Sites Outside of Texas

N/A

CH-B + C

TCEQ		Policy Revision 2 (09/02)		PCW Revision 6/12/2003	
Penalty Calculation Worksheet (PCW)					
DATES PCW <input type="text" value="27-May-2004"/> Screening <input type="text" value="13-Jan-2004"/> Priority Due <input type="text" value="12-May-2004"/> EPA Due <input type="text"/>					
RESPONDENT INFORMATION Respondent <input type="text" value="Mohammad K. Aroud dba Jones Marl Shell"/> Respondent/Site ID No(s) <input type="text" value="Petroleum Storage Tank Facility ID No. 33010"/> Facility/Site Region <input type="text" value="12 - Houston"/> Major/Minor Source <input type="text" value="Major"/>					
CASE INFORMATION Enf./Case ID No(s) <input type="text" value="Case No. 12096"/> Docket No. <input type="text" value="2004-0089-PST-E"/> No. Violations <input type="text" value="6"/> Case Priority <input type="text" value="3"/> Order Type <input type="text" value="1660 without deferral"/> Enf. Coordinator <input type="text" value="Trina Grieco"/> EC's Team <input type="text" value="Enforcement Team A"/> Media Program(s) <input type="text" value="Petroleum Storage Tank"/> Admin. Penalty \$ Limit Minimum <input type="text" value="\$0"/> Maximum <input type="text" value="\$10,000"/>					

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	<input type="text" value="\$117,500"/>
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	<input type="text" value="\$0"/>
Notes	<input type="text" value="No adjustments made due to Average Performer classification."/>		<input type="text" value="+"/>
Culpability	0% Enhancement	Subtotal 4	<input type="text" value="\$0"/>
Notes	<input type="text" value="The Respondent does not meet culpability criteria."/>		<input type="text" value="+"/>
Good Faith Effort to Comply	0% Reduction	Subtotal 5	<input type="text" value="\$0"/>
Notes	<input type="text" value="The Respondent is not yet in compliance."/>		<input type="text" value="+"/>
Economic Benefit	0% Enhancement	Subtotal 6	<input type="text" value="\$0"/>
	\$1,560 Total EB Amounts	*Capped at the Total EB \$ Amount	
	\$1,470 Approx. Cost of Compliance	<input "="" type="text" value="="/>	
SUM OF SUBTOTALS 1-7		Final Subtotal	<input type="text" value="\$117,500"/>
OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	<input type="text" value="\$0"/>
Notes		<input "="" type="text" value="="/>	
		Final Penalty Amount	<input type="text" value="\$117,500"/>
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	<input type="text" value="\$117,500"/>
DEFERRAL		Adjustment	<input type="text" value="\$0"/>
Notes		<input "="" type="text" value="="/>	
PAYABLE PENALTY			<input type="text" value="\$117,500"/>



Screening Date 13-Jan-2004

Docket Number 2004-0089-PST-E

PCW

Respondent Mohammad K. Aroud dba Jones Marl Shell

Policy Revision 2 (09/02)

Case ID No. Case No. 12096

PCW Revision 6/12/2003

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 33010

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Site Address: 11702 Jones Road, Houston, Harris County

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	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%
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 Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer Select High, Average or Poor

Adjustment Percentage (Subtotal 7) 0%

Compliance History Summary

Compliance History Notes: No adjustments made due to Average Performer classification.

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

Screening Date 13-Jan-04 Docket Number 2004-0089-PST-E

PCW
Policy Revision 2 (09/02)
PCW Revision 6/12/2003

Respondent Mohammad K. Aroud dba Jones Mart Shell

Case ID No. Case No. 12096

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 33010

Media [Statute] Petroleum Storage Tank

Inf. Coordinator Trina Grieco

Violation Number 1

Primary Rule Cite 30 Tex. Admin. Code §§ 334.50(b)(1)(A) and (d)(1)(B)(ii)

Secondary Cite(s) Tex. Water Code § 26.3475(c)(1)

Violation Description Failure to monitor underground storage tanks (USTs) 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, the respondent failed to conduct reconciliation of detailed inventory control records at least once each month.

Base Penalty \$10,000

Environmental Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
Actual			
Potential	X		
			Percent 50%

Programmatic Matrix			
Falsification	Major	Moderate	Minor
			Percent

Matrix Notes Failure to monitor USTs for releases can result in the exposure of a significant amount of contaminants which would exceed levels that are protective to human health and the environment.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events													
Number of Violation Events	6												
mark only one; use small x	<table border="1"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td></td></tr> <tr><td>quarterly</td><td>X</td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table>	daily		monthly		quarterly	X	semiannual		annual		single event	
daily													
monthly													
quarterly	X												
semiannual													
annual													
single event													
Violation Base Penalty \$30,000													

Events Notes Six quarterly events are recommended from the investigation date of January 30, 2003 to the settlement due date of May 16, 2004 to make the penalty commensurate with the situation.

Economic Benefit (EB) to this violation Statutory Limit Test

Estimated EB Amount (\$) \$244

Violation Final Penalty total \$30,000

This Violation Final Assessed Penalty (adjusted for limits) \$30,000

Economic Benefit Worksheet

Respondent: Mohammad K. Aroud dba Jones Mari Shell
 ID Number(s): Case No. 12096
 Media [Statute]: Petroleum Storage Tank
 Violation Number: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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	\$120	30-Jan-2003	6-Jan-2005	1.9	\$12	\$232	\$244
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				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 expense for an employee paid \$10 per hour to reconcile inventory records once per month. Date required based on the investigation date. Final date based on the projected compliance date.

Approx Cost of Compliance \$120

TOTAL \$244

Screening Date 13-Jan-04

Docket Number 2004-0089-PST-E

PCW

Respondent Mohammad K. Aroud dba Jones Mart Shell

Policy Revision 2 (09/02)

Case ID No. Case No. 12096

PCW Revision 6/12/2003

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 33010

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number 2

Primary Rule Cite 30 Tex. Admin. Code § 334.8(c)(4)(B) and 7(a)(1)

Secondary Cite(s) Tex. Water Code § 26.346(a)

Violation Description Failure to ensure that the UST registration and self-certification form is fully and accurately completed, and that it is submitted to the agency in a timely manner, and failure to register the USTs with the agency on authorized agency forms.

Base Penalty \$10,000

Environmental, Property, and Human Health Matrix

Matrix table with columns: Release (Major, Moderate, Minor), Actual, Potential, Harm, Percent.

Programmatic Matrix

Matrix table with columns: Falsification, Major, Moderate, Minor, Percent.

Matrix Notes Failure to submit the registration and self-certification form in a timely manner and register the USTs means that 100% of the rule requirements were not met.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Table for Violation Events including Number of Violation Events (1), frequency options (daily, monthly, quarterly, semiannual, annual, single event), and Violation Base Penalty (\$2,500).

Events Notes One single event is recommended based on the investigation date of January 30, 2003.

Economic Benefit (EB) to this violation

Statutory Limits

Estimated EB Amount (\$) \$3

Violation Final Penalty total \$2,500

This Violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent: Mohammad K. Arouf dba Jones Mart Shell
 ID Number(s): Case No. 12096
 Media [Statute]: Petroleum Storage Tank
 Violation Number: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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)	\$100	2-Aug-2002	11-Mar-2003	0.6	\$3	n/a	\$3

Notes for DELAYED costs: Estimated expense to complete and submit the registration and self-certification form. Date required is 30 days after the first documented delivery date. Final date based on the compliance (self-certification) date.

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				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: ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Approx Cost of Compliance: \$100 TOTAL: \$3

Screening Date 13-Jan-04

Docket Number 2004-0089-PST-E

PCW
Policy Revision 2 (09/02)
PCW Revision 6/12/2003

Respondent Mohammad K. Aroud dba Jones Marl Shell

Case ID No. Case No. 12096

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 93010

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number 3

Primary Rule Cite 30 Tex. Admin. Code § 37.815(a)(1) and (b)(1)

Secondary Cite(s)

Violation Description

Failure to demonstrate 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			
Harm			
Release	Major	Moderate	Minor
OR Actual			
Potential			
			Percent
Programmatic Matrix			
Falsification	Major	Moderate	Minor
OR	x		
			Percent 25%
Matrix Notes	Failure to demonstrate financial assurance for the USTs means that 100% of the rule requirements were not met.		
			Adjustment -\$7,500
			Base Penalty Subtotal \$2,500
Violation Events			
Number of Violation Events 2			
mark only one; use small x	daily		
	monthly		
	quarterly		
	semiannual		
	annual		
	single event	x	
			Violation Base Penalty \$5,000
Events Notes	Two single events are recommended (one for each tank) based upon the investigation date of January 30, 2003.		
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount (\$) \$1,313		Violation Final Penalty total \$5,000	
This Violation Final Assessed Penalty (adjusted for limits)			\$5,000

Economic Benefit Worksheet

Respondent: Mohammad K. Aroud dba Jones Mart Shell
 ED Number(s) Case No. 12096
 Media [Statute] Petroleum Storage Tank
 Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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							

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)			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/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,250	30-Jan-2002	30-Jan-2003	1.0	\$63	\$1,250	\$1,313
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 the petroleum USTs for the 12 months preceding the date of the investigation.						

Approx Cost of Compliance

TOTAL

Screening Date 13-Jan-04 Docket Number 2004-0089-PST-E PCW
 Respondent Mohammad K. Aroud dba Jones Mart Shell Policy Revision 2 (09/02)
 Case ID No. Case No. 12096 PCW Revision 6/12/2003

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 33010

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number 4

Primary Rule Cite 30 Tex. Admin. Code § 334.8(c)(5)(A)(i)

Secondary Cite(s) Tex. Water Code § 26.3467(a)

Violation Description Failure to make available to a common carrier a valid, current delivery certificate before delivery of a regulated substance into the UST(s) is accepted.

Base Penalty: \$10,000

Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Release Actual				Percent: 10%
	Potential			X	

Programmatic Matrix

		Major	Moderate	Minor	
OR	Falsification				Percent:

Matrix Notes Failure to make available a valid, current TCEQ delivery certificate can result in the exposure of an insignificant amount of contaminants which not may exceed levels that are protective to human health and the environment.

Adjustment: -\$9,000

Base Penalty Subtotal: \$1,000

Violation Events

Number of Violation Events 50

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty: \$50,000

Events Notes Fifty (50) single events are recommended for the 50 deliveries received between July 2, 2002 and January 28, 2003.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$): \$0

Violation Final Penalty total: \$50,000

This Violation Final Assessed Penalty (adjusted for limits): \$50,000

Economic Benefit Worksheet

Respondent: Mohammad K. Aroud dba Jones Mart Shell
 ID Number(s): Case No. 12096
 Media [Statute]: Petroleum Storage Tank
 Violation Number: 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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

Economic benefit for this violation is included in the economic benefit calculated in violation 2.

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/equip				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

TOTAL

Page 11 of 14 03/07/04 C:\winnt\temp\pcw\form\trina.ppw
 Screening Date 13-Jan-04 Docket Number 2004-0089-PST-E PCW
 Respondent Mohammad K. Aroud dba Jones Mart Shell Policy Revision 2 (09/02)
 Case ID No. Case No. 12096 PCW Revision 6/12/2003

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 33010

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number 5

Primary Rule Cite 30 Tex. Admin. Code § 334.48(c)

Secondary Cite(s)

Violation Description

Failure to conduct inventory control at a retail facility, regardless of the chosen method of release detection.

Base Penalty: \$10,000

Environmental, Property and Human Health Matrix

		Harm				
		Major	Moderate	Minor		
OR	Release					
	Actual					
	Potential	X			Percent	50%

Programmatic Matrix

		Major	Moderate	Minor		
OR	Falsification					
					Percent	

Matrix Notes

Failure to conduct inventory control at a retail facility can result in the exposure of a significant amount of contaminants which would exceed levels that are protective to human health and the environment.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events 6

mark only one; use small x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$30,000

Events Notes

Six quarterly events are recommended from the investigation date of January 30, 2003 to the settlement due date of May 16, 2004 to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$30,000

This Violation Final Assessed Penalty (adjusted for limits) \$30,000

Economic Benefit Worksheet

Respondent **Mohammad K. Aroud dba Jones Mart Shell**
 ID Number(s) **Case No. 12096**
 Media [Statute] **Petroleum Storage Tank**
 Violation Number **5**

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	One/Time 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	ANNUALIZED avoided costs before entering item (except for one-time avoided costs)
Disposal	0.0
Personnel	0.0
Inspection/Reporting/Sampling	0.0
Supplies/equip	0.0
Financial Assurance [2]	0.0
ONE-TIME avoided costs [3]	0.0
Other (as needed)	0.0

Notes for AVOIDED costs

Economic benefit for this violation is included in the economic benefit calculated in violation 1.
--

Approx Cost of Compliance

TOTAL

Screening Date 13-Jan-04

Docket Number 2004-0089-PST-E

PCW

Respondent Mohammad K. Aroud dba Jones Marl Shell

Policy Revision 2 (09/02)

Case ID No. Case No. 12096

PCW Revision 6/12/2003

Respondent/Site ID No. Petroleum Storage Tank Facility ID No. 33010

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Trina Grieco

Violation Number

6

Primary Rule Cite

30 Tex. Admin. Code § 334.22(a)

Secondary Cite(s)

Violation Description

Failure to pay annual UST registration and associated late fees for Financial Administration Account No. 0060690U, UST ID No. 33010, for fiscal years 2001 through 2004.

Base Penalty

\$10,000

Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

Percent

Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Adjustment -\$10,000

Base Penalty Subtotal

\$0

Violation Events

Number of Violation Events

mark only one; use small x

- daily
- monthly
- quarterly
- semiannual
- annual
- single event

Violation Base Penalty

\$0

Events Notes

No administrative penalty was calculated for this violation because penalty and interest will be assessed in the next billing cycle.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total

\$0

This Violation Final Assessed Penalty (adjusted for limits)

\$0

Economic Benefit Worksheet

Respondent: Mohammad K. Aroud dba Jones Mart Shell
 ID Number(s): Case No. 12096
 Media [Statute]: Petroleum Storage Tank
 Violation Number: 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	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: No applicable.

Item Description	ANNUALIZED avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
Avoided Costs					
Disposal		0.0	\$0	\$0	\$0
Personnel		0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling		0.0	\$0	\$0	\$0
Supplies/equip		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: Not applicable.

Approx Cost of Compliance: \$0 TOTAL: \$0

179359502002232

Compliance History

Customer/Respondent/Owner-Operator:	CN601195324	AROUD, MOHAMMAD K	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN102834223	JONES MART SHELL	Classification: HIGH	Site Rating: 0.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	33010
Location:	11702 JONES RD, HOUSTON, TX, 77070		Rating Date: 9/1/03 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	January 27, 2004			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 27, 1999 to January 27, 2004			

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

Name: Trina Grieco Phone: (713) 767-3607

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 dates of investigations.
1 06/11/2003
2 01/17/2003
- E. Written notices of violations (NOV).
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

CH-B + C

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MOHAMMAD K. AROUD DBA
JONES MART SHELL;
RN102834223**

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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2004-0089-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Second Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7, and 26, TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Mohammad K. Aroud dba Jones Mart Shell ("Aroud").

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

FINDINGS OF FACT

1. Aroud owned and operated a convenience store with retail sales of gasoline located at 11702 Jones Road in Houston, Harris County, Texas (the "Facility").
2. Aroud's two underground storage tank(s) ("USTs") were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Aroud's USTs contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on January 30, 2003, a TCEQ Houston Regional Office investigator documented that Aroud:
 - a. Failed to monitor USTs 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, the respondent failed to conduct reconciliation of detailed inventory control records at least once each month;
 - b. Failed to ensure that the UST registration and self-certification form is fully and

- accurately completed, and that it is submitted to the agency in a timely manner, and failure to register the USTs with the agency on authorized agency forms;
- c. Failed to demonstrate 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. Specifically, Aroud failed to provide proof of financial assurance for a period including January 30, 2003;
 - d. Failed to make available to a common carrier a valid, current delivery certificate before delivery of a regulated substance into the UST(s) is accepted; and,
 - e. Failed to conduct inventory control at a retail facility, regardless of the chosen method of release detection.
4. During a record review conducted on November 19, 2003, it was discovered that Aroud failed to conduct a site check upon the request of the TCEQ when environmental contamination is the basis for suspecting a release. Specifically, hydrocarbon contamination was identified in off site domestic drinking water wells.
 5. During a record review conducted on January 13, 2004, it was discovered that Aroud failed to pay annual UST registration and associated late fees for Financial Administration Account No. 0060690U, UST ID No. 33010, for fiscal years 2001 through 2004.
 6. During an investigation conducted April 28, 2005 a TCEQ Houston Regional Office investigator documented that Aroud:
 - a. Failed to maintain all required Stage II records at the Station and make immediately available for review upon request by authorized representatives of the TCEQ. Specifically the respondent failed to maintain a copy of the CARB Executive Order for the Stage II system installed, a daily inspection log for all Stage II Equipment, a maintenance log for any Stage II related repairs and/or replacements, monthly inspection of pressure/vacuum relief valves and Stage I dry breaks, and a record of any and all test results that have taken place at the station, including annual pressure decay test results and certificate of Stage II training for the Station representative.
 - b. Failed to monitor pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. Specifically, the respondent did not conduct annual piping tightness testing or annual line leak detector functionality testing.

7. Aroud received notice of the violations on or about June 12, 2003, March 18, 2004, and June 16, 2004.
8. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Aroud dba Jones Mart Shell" (the "EDPRP") in the TCEQ Chief Clerk's office on September 7, 2004.
9. By letter dated September 7, 2004, sent via certified mail, return receipt requested, and via First class mail, postage prepaid, the Executive Director served Aroud with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Aroud received notice of the EDPRP.
10. More than 20 days have elapsed since Aroud received notice of the EDPRP, provided by the Executive Director. Aroud failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
11. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Aroud dba Jones Mart Shell" (the "EDFARP") in the TCEQ Chief Clerk's office on September 17, 2007.
12. By letter dated September 17, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Aroud with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Aroud received notice of the EDFARP.
13. More than 20 days have elapsed since Aroud received notice of the EDFARP, provided by the Executive Director. Aroud failed to file an answer to the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.
14. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of

Mohammad K. Aroud dba Jones Mart Shell” (the “EDSARP”) in the TCEQ Chief Clerk’s office on January 29, 2008

15. By letter dated January 29, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Aroud with notice of the EDSARP. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Aroud received notice of the EDSARP.
16. More than 20 days have elapsed since Aroud received notice of the EDSARP, provided by the Executive Director. Aroud failed to file an answer to the EDSARP, failed to request a hearing, and failed to schedule a settlement conference.
17. The Executive Director filed the “Executive Director’s Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Aroud dba Jones Mart Shell” (the “EDTARP”) in the TCEQ Chief Clerk’s office on March 12, 2008
18. By letter dated March 12, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Aroud with notice of the EDTARP. According to the return receipt “green card,” Aroud received notice of the EDTARP on March 14, 2008, as evidenced by the signature on the card.
19. More than 20 days have elapsed since Aroud received notice of the EDTARP, provided by the Executive Director. Aroud failed to file an answer to the EDTARP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Aroud is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7 and 26, and the TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Aroud violated 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), by failing to monitor USTs 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, the respondent failed to conduct reconciliation of detailed inventory control records at least once each month.

3. As evidenced by Finding of Fact No. 3.b., Aroud violated 30 TEX. ADMIN. CODE §§ 334.7(a)(1) and 334.8(c)(4)(B) and TEX. WATER CODE § 26.346(a), by failing to ensure that the UST registration and self-certification form is fully and accurately completed, and that it is submitted to the agency in a timely manner, and failure to register the USTs with the agency on authorized agency forms.
4. As evidenced by Finding of Fact Number 3.c., Aroud violated 30 TEX. ADMIN. CODE § 37.815(a)(1) and (b)(1), by failing to demonstrate 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. Specifically, Aroud failed to provide proof of financial assurance for a period including January 30, 2003.
5. As evidenced by Finding of Fact Number 3.d., Aroud violated 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), by failing to make available to a common carrier a valid, current delivery certificate before delivery of a regulated substance into the UST(s) is accepted.
6. As evidenced by Finding of Fact Number 3.e., Aroud violated 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct inventory control at a retail facility, regardless of the chosen method of release detection.
7. As evidenced by Finding of Fact Number 4., Aroud violated 30 TEX. ADMIN. CODE §§ 334.73 and 334.74 by failing to conduct a site check upon the request of the TCEQ when environmental contamination is the basis for suspecting a release. Specifically, hydrocarbon contamination was identified in off site domestic drinking water wells.
8. As evidenced by Finding of Fact Number 5., Aroud violated 30 TEX. ADMIN. CODE § 334.22(a), TEX. WATER CODE ch. 5, by failing to pay annual UST registration and associated late fees for Financial Administration Account No. 0060690U, UST ID No. 33010, for fiscal years 2001 through 2004.
9. As evidenced by Finding of Fact Number 6.a., Aroud violated 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain all required Stage II records at the Station and make immediately available for review upon request by authorized representatives of the TCEQ. Specifically the respondent failed to maintain a copy of the CARB Executive Order for the Stage II system installed, a daily inspection log for all Stage II Equipment, a maintenance log for any Stage II related repairs and/or replacements, monthly inspection of pressure/vacuum relief valves and Stage I dry breaks, and a record of any and all test results that have taken place at the station, including annual pressure decay test results and certificate of Stage II training for the Station.

representative.

10. As evidenced by Finding of Fact Number 6.b., Aroud violated 30 TEX. ADMIN. CODE §§ 334.50(b)(2) and 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), by failing to monitor pressurized piping associated with the UST system in a manner designed to detect releases from any portion of the piping system. Specifically, the respondent did not conduct annual piping tightness testing or annual line leak detector functionality testing
11. As evidenced by Finding of Fact Nos. 8 and 9, the Executive Director has timely served Aroud with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
12. As evidenced by Finding of Fact No. 10, Aroud has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Aroud and assess the penalty recommended by the Executive Director.
13. As evidenced by Finding of Fact Nos. 11 and 12, the Executive Director has timely served Aroud with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
14. As evidenced by Finding of Fact No. 13, Aroud has failed to file a timely answer to the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Aroud and assess the penalty recommended by the Executive Director.
15. As evidenced by Finding of Fact Nos. 14 and 15, the Executive Director has timely served Aroud with proper notice of the EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
16. As evidenced by Finding of Fact No. 16, Aroud has failed to file a timely answer to the EDSARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Aroud and assess the penalty recommended by the Executive Director.

17. As evidenced by Finding of Fact Nos. 17 and 18, the Executive Director has timely served Aroud with proper notice of the EDTARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
18. As evidenced by Finding of Fact No. 19, Aroud has failed to file a timely answer to the EDTARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Aroud and assess the penalty recommended by the Executive Director.
19. Pursuant to TEX. WATER CODE § 7.051 the Commission has the authority to assess an administrative penalty against Aroud for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
20. An administrative penalty in the amount of one hundred thirty-six thousand seventy dollars (\$136,070.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
21. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Aroud is assessed an administrative penalty in the amount of one hundred thirty-six thousand seventy dollars (\$136,070.00) for violations of the Texas Water Code and Texas Health & Safety Code the rules of the TCEQ. The payment of this administrative penalty and Aroud's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Mohammad K. Aroud dba Jones Mart Shell; Docket No. 2004-0089-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. All relief not expressly granted in this Order is denied.
3. The provisions of this Order shall apply to and be binding upon Aroud.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Aroud if the Executive Director determines that Aroud has not complied with one or more of the terms or conditions in this Order.
5. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
6. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JACQUELYN BOUTWELL

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Aroud dba Jones Mart Shell” (the “EDPRP”) was filed with the Office of the Chief Clerk on September 7, 2004

The EDPRP was mailed to Aroud at his last known address on September 7, 2004, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Aroud received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Aroud dba Jones Mart Shell” (the “EDFARP”) was filed with the Office of the Chief Clerk on September 17, 2007

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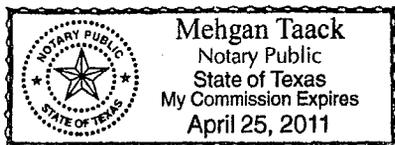
The EDTARP was mailed to Aroud at his last known address on March 12, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” which was signed on March 14, 2008, Aroud received notice of the EDTARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

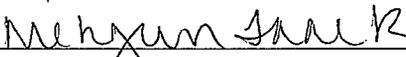
More than 20 days have elapsed since Aroud received notice of the EDTARP. Aroud failed to file an answer to the EDTARP, failed to request a hearing, and failed to schedule a settlement conference.”


Jacquelyn Boutwell, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 27th day of MARCH, A.D., 2008.




Notary Signature