EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2002-0779-PST-E TCEQ ID NO.: RN101870673 CASE NO.: 17698
RESPONDENT NAME: MOHAMMAD ELHOMMOUD DBA SAM'S GROCERY MART

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
_FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
___AIR	___MULTI-MEDIA (check all that apply)	___INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	_X_PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
___WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
___MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__ DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 906 East Harris, Pasadena, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: __X__ Yes ____ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 31, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846
Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Mr. Terry Murphy, Air Enforcement Section, MC 149, (512) 239-5025
TCEQ Regional Contact: Ms. Nicolle Bealle, Houston Regional Office, MC R-12, (713) 767- 3623
Respondent: Mr. Mohammad Elhommoud, President, Sam's Grocery Mart, 527 Woodsmoke, Houston, Texas 77013
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint _X_ Routine ___ Enforcement Follow-up ___ Records Review **Date of Complaints Relating to this Case:** None **Dates of Investigation Relating to this Case:** August 31, 2001 and September 25, 2001 **Date of NOE Relating to this Case:** August 30, 2002 **Background Facts:** The EDPRP was filed on June 6, 2003. The EDFARP was filed March 22, 2005. The EDSARP was filed February 2, 2006. The case was referred to SOAH. The Agreed Order was signed on September 5, 2007. **PST** 1) Failed to equip the regular unleaded product line with an automatic line leak detector [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i) and TEX. WATER CODE 26.3475]. 2) Failed to prevent a release of a petroleum product at the Facility [TEX. WATER CODE 26.121]. 3) Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Facility [30 TEX. ADMIN. CODE § 334.48(c)]. 4) Failed to provide a release detection method for the UST system to monitor for release of petroleum product at least once per month no to exceed 35 days [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE 26.3475]. 5) Failed to ensure that the UST Registration and Self Certification form was fully and accurately completed, and that it was submitted to the TCEQ in a timely manner [30 TEX. ADMIN. CODE § 334.8(c)(4)(B) and TEX. WATER CODE 26.346(a)]. 6) Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE 26.3467(a)].	**Initial Calculated Penalty:** $20,500 **Total Assessed:** $14,500 **Total Deferred:** $0 ___ Expedited Settlement ___ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid / Due to General Revenue:** $500 / $14,000 The Respondent has paid $500 of the administrative penalty. The remaining amount of $14,000 shall be payable in 35 monthly payments of $400 each. **Site Compliance History Classification** N/A_X_ **Person Compliance History Classification** N/A_X_ **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 1999 **Explanation for reduction in penalty:** The administrative penalty was reduced for risk of litigation.	**Corrective Actions Taken** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility in response to this enforcement action: a. Completed and submitted a TCEQ UST registration and self-certification form with all applicable information for the UST system on September 25, 2001 and a delivery certificate was granted on September 27, 2001; b. Implemented effective automatic inventory control procedures for all UST's in accordance with 30 TAC § 334.8(c) on November 5, 2002; c. Utilized automatic tank gauging for release detection on November 5, 2002; d. Repaired the damaged product line and installed line leak detectors as of September 10, 2001; and e. Disposed of all waste/ spill product at the facility as documented on the August 31, 2001 inspection.

TNRCC Penalty Calculation Worksheet

Plcy. rev. 1 (01/99) PCW rev. 12/06/2001

Go to Viol 1

Case Information

Screening Date	22-May-2002	Case Priority Due Date	19-Sep-2002
PCW Date	6-Nov-2002	EPA SNC/SV Due Date	
Respondent	Mr. Mohammad Elhommoud dba Sam's Grocery Mart		
ID Number(s)	PST Facility ID No. 0016427; ENF ID No. 17698		
Docket Number	2002-0779-PST-E	Facility/Site Region	12
Enf. Coordinator	A. Sunday Udoetok	EC's Unit or Region	Team 3
Type of Order	1660 with deferral	No. of Violations in PCW	6
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program

x	Program Name(s)	Admin. Penalty Dollar Limit Min	Max
x	Petroleum Storage Tanks	$0	$10,000
	Water Rights	$0	$5,000
		$0	$2,500
	Public Water Supply	$50	$1,000
	Levees	$0	$1,000
	Public Water Utilities	$0	$500

Adjustments to Subtotal 1

Total Base Penalty forward (subtotal 1) $20,500

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes [ ] No [x]

Notes: There are no previous NOVs for same or similar violations for this facility in the past five years.

Adjustment amount (subtotal 2) $0

Economic Benefit (enhancement)

Total of EB Amounts $1,313

EB Enhancement (percent) 0%

Adjustment amount (subtotal 5) $0

Approx. Cost of Compliance $9,778

Good Faith Effort to Comply (reduction)

Quality of Action	Timing of Action: Before NOV	NOV to EDPRP or Order
Extraordinary		
Ordinary		
None of the above	x	

Percent: 0% (mark only one; use small x)

Notes: Respondent does not meet the good faith criteria.

Adjustment amount (subtotal 3) $0

Compliance History (enhancement)

Enter Percent: 0 (enter number only; e.g., 30 for 30%)

Notes: There is no record of past findings order, judicial actions or criminal convictions.

Adjustment amount (subtotal 4) $0

Final Subtotal $20,500

Other Factors as justice may require

Enter Adjustment Percentage (+/-): 0% (enter number only; e.g., -30 for -30%)

Amount $0

Notes:

(if more space is needed, increase row height)

Final Penalty Amount $20,500

Final Assessed Penalty (including any statutory limit adj.) $20,500

Payable Penalty

Enter Deferral Percentage: 0% (enter number only; e.g., 20 for 20%)

Deferral $0

Notes: This is not an expedited case.

Payable Penalty $20,500

PCW
Plcy. rev. 1 (01/99)
PCW rev. 12/06/2001

Screening Date 22-May-02 **Docket Number** 2002-0779-PST-E
Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok

Violation Number 1
Primary Rule Cite 30 Texas Admin. Code § 334.48(c)
Secondary Cite(s)
Violation Description The respondent failed to conduct effective manual or automatic inventory control procedures for all Underground Storage Tank (UST) systems at the facility.

Base Penalty $10,000

» Environmental, Property and Human Health Matrix

Harm			
Release	Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes Failure to conduct effective inventory control procedures for all underground storage tank (UST) systems may result in the undetected release of petroleum product which 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 3

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	x
annual	
single event	

Violation Base Penalty **$7,500**

Events Notes Three semi annual events are recommended from the inspection date of September 25, 2001, to the November 5, 2002 achievement of compliance.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount ($) $1,275

Violation Final Penalty total $7,500

This Violation Final Assessed Penalty (adjusted for limits) $7,500

Economic Benefit Worksheet

Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (As needed)				0.0	$0	$0	$0
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	$1,092	25-Sep-2001	5-Nov-2002	1.1	$61	$1,215	$1,275
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 cost includes the amount to conduct effective inventory control at $1,092 per year.						

Approx Cost of Compliance $1,092

TOTAL $1,275

Screening Date 22-May-02 **Docket Number** 2002-0779-PST-E **PCW**
Plcy. rev. 1 (01/99)
PCW rev. 12/06/2001

Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok

Violation Number 2
Primary Rule Cite 30 Texas Admin. Code § 334.50(b)(1)(A)
Secondary Cite(s) TWC § 26.3475
Violation Description Respondent failed to have a release detection method for the UST system to monitor for releases at least once per month (not to exceed 35 days).

Base Penalty $10,000

» Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes Failure to provide a method of release detection may result in the undetected release of petroleum product which 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 3

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

Violation Base Penalty **$7,500**

Events Notes Three semi annual events are recommended from the inspection date of September 25, 2001, to the November 5, 2002 achievement of compliance.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount ($) $30

Violation Final Penalty total $7,500

This Violation Final Assessed Penalty (adjusted for limits) **$7,500**

Economic Benefit Worksheet

Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (As needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (As Needed)	$500	31-Aug-2001	5-Nov-2002	1.2	$30	n/a	$30
Notes for DELAYED costs	Estimated cost to provide release detection.						
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 $500

TOTAL $30

PCW
Plcy. rev. 1 (01/99)
PCW rev. 12/06/2001

Screening Date 22-May-02 **Docket Number** 2002-0779-PST-E
Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok

Violation Number 3
Primary Rule Cite 30 Texas Admin. Code § 334.8(c)(4)(B)
Secondary Cite(s) Texas Water Code § 26.346(a)
Violation Description Failure to ensure that the Underground Storage Tank Registration and Self Certification form is fully and accurately completed, and that it is submitted to the agency in a timely manner. At the time of the September 25, 2001 investigation, the facility did not have a valid, current delivery certificate.

Base Penalty $10,000

» Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

OR

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

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

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty **$1,000**

Events Notes One single event is recommended based on the September 25, 2001 inspection .

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount ($) $0

Violation Final Penalty total $1,000

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

Economic Benefit Worksheet

Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (As needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (As Needed)	$100	25-Sep-2001	27-Sep-2001	0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to submit self certification form.						
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 $100

TOTAL $0

PCW
Plcy. rev. 1 (01/99)
PCW rev. 12/06/2001

Screening Date 22-May-02 **Docket Number** 2002-0779-PST-E
Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok
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 TNRCC delivery certificate before accepting delivery of a regulated substance. During the September 25, 2001 inspection, fuel delivery receipts were observed documenting gasoline deliveries on August 25, 2001 and September 13, 2001 without a valid and current TNRCC delivery certificate.

Base Penalty $10,000

» Environmental, Property and Human Health Matrix

Harm			
Release	Major	Moderate	Minor
OR Actual			
Potential			x

Percent 5%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes Receiving fuel without a valid and current delivery certificate could result in human health or the environment being exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors.

Adjustment -$9,500

Base Penalty Subtotal $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 **$1,000**

Events Notes Two single events are recommended based on the deliveries of fuel received on August 25, 2001 and September 13, 2001, without a valid, current TNRCC delivery certificate.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount ($) $0

Violation Final Penalty total $1,000

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

Economic Benefit Worksheet

Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Violation Number 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (As needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (As Needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/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	Economic Benefit already included in violation #3.						

Approx Cost of Compliance $0

TOTAL $0

PCW
Plcy. rev. 1 (01/99)
PCW rev. 12/06/2001

Screening Date 22-May-02 **Docket Number** 2002-0779-PST-E
Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok

Violation Number	5
Primary Rule Cite	30 Texas Admin. Code § 334.50(b)(2)(A)(i)
Secondary Cite(s)	Texas Water Code § 26.3475
Violation Description	Respondent failed to equip the regular unleaded product line with an automatic line leak detector.

Base Penalty $10,000

» Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes The failure to equip the product line with an automatic line leak detector may result in the undetected release of petroleum product which 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

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

Violation Base Penalty **$2,500**

Events Notes One quarterly event is recommended based on the August 31, 2001 inspection to the September 10, 2001 date of compliance.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount ($) $7

Violation Final Penalty total $2,500

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

Economic Benefit Worksheet

Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Violation Number 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$3,703	31-Aug-2001	10-Sep-2001	0.0	$0	$7	$7
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	The approximate cost for installing line leak detectors.						
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 $3,703

TOTAL $7

PCW
Plcy. rev. 1 (01/99)
PCW rev. 12/06/2001

Screening Date 22-May-02 **Docket Number** 2002-0779-PST-E
Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Enf. Coordinator A. Sunday Udoetok

Violation Number 6
Primary Rule Cite Texas Water Code § 26.121
Secondary Cite(s)
Violation Description A break in the Unleaded Regular flexible line caused an initial leak and intensive rainfall forced gasoline to the surface and resulted in spillage from sump containment into nearby storm sewers as documented on an inspection conducted on August 31, 2001.

Base Penalty $10,000

» Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes The release of petroleum product did not exceed levels that are protective of human health or the environment

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

Events Notes One single event is recommended based on the release documented on the August 31, 2001 inspection.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount ($) $1

Violation Final Penalty total $1,000

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

Economic Benefit Worksheet

Respondent Mr. Mohammad Elhommoud dba Sam's Grocery Mart
ID Number(s) PST Facility ID No. 0016427; ENF ID No. 17698
Media [Statute] Petroleum Storage Tanks
Violation Number 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				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	$4,383	30-Aug-2001	31-Aug-2001	0.0	$1	n/a	$1
Permit Costs				0.0	$0	n/a	$0
Other (As Needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	The approximate cost involved in the clean up and disposal of the waste/spill.						
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 $4,383

TOTAL $1

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING MOHAMMAD ELHOMMOUD DBA SAM'S GROCERY MART RN101870673	§ § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2002-0779-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission," "TCEQ," or previously, "TNRCC") considered this agreement of the parties, resolving an enforcement action regarding Mohammad Elhommoud dba Sam's Grocery Mart ("Mr. Elhommoud") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Elhommoud, appear before the Commission and together stipulate that:

1. Mr. Elhommoud owns and operates a convenience store with retail sales located at 906 East Harris in Pasadena, 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. Elhommoud agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Elhommoud is subject to the Commission's jurisdiction.

4. Mr. Elhommoud received notice of the violations alleged in Section II ("Allegations") on or about February 2, 2002.

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

6. An administrative penalty in the amount of fourteen thousand five hundred dollars ($14,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Elhommoud has paid five hundred dollars ($500.00) of the administrative penalty. The remaining amount of fourteen thousand dollars ($14,000.00) of the administrative penalty shall be payable in 35 monthly payments of four hundred dollars ($400.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Elhommoud 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, Mr. Elhommoud's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Elhommoud 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. Elhommoud 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 Mr. Elhommoud has implemented the following corrective measures at the Facility in response to this enforcement action:

   a. Completed and submitted a TCEQ Underground Storage Tank (UST") Registration and Self-Certification form with all applicable information for the UST system on September 25, 2001, and a delivery certificate was granted on September 27, 2001.

   b. Implemented effective automatic inventory control procedures for all UST's in accordance with 30 TAC § 334.8(c) on November 5, 2002.

   c. Utilized automatic tank gauging for release detection on November 5, 2002.

   d. Repaired the damaged product line and installed line leak detectors as of September 10, 2001

   e. Disposed of all waste/ spill product at the Facility, as documented on the August 31, 2001 inspection.

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. Elhommoud 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. Elhommoud is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i) and TEX. WATER CODE § 26.3475 by failing to equip the regular unleaded product line with an automatic line leak detector, as documented during an inspection on August 31, 2001.

2. TEX. WATER CODE § 26.121 by failing to prevent a release of a petroleum product at the Facility. Specifically, a break in the Unleaded Regular flexible line caused an initial leak and intensive rainfall forced gasoline to the surface and resulted in spillage from sump containment into nearby storm sewers, as documented during an inspection on August 31, 2001.

3. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST system at the Facility, as documented during an inspection on September 25, 2001.

4. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475 by failing to provide a release detection method for the UST system to monitor for release of petroleum product at least once per month not to exceed 35 days, as documented during an inspection on September 25, 2001.

5. 30 TEX. ADMIN. CODE § 334.8(c)(4)(B) and TEX. WATER CODE § 26.346(a) by failing to ensure that the UST Registration and Self Certification form was fully and accurately completed, and that it was submitted to the TCEQ in a timely manner, as documented during an investigation on September 25, 2001.

6. 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 TCEQ delivery certificate before accepting delivery of a regulated substance, as documented during an investigation on September 25, 2001.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Elhommoud pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Mr. Elhommoud'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: Mohammad Elhommoud dba Sam's Grocery Mart, Docket No. 2002-0779-PST" 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. The provisions of this Agreed Order shall apply to and be binding upon Mr. Elhommoud. Mr. Elhommoud 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.

3. 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. Elhommoud shall be made in writing to the Executive Director. Extensions are not effective until Mr. Elhommoud receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

4. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Elhommoud 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.

5. 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.

6. 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. Elhommoud, or three days after the date on which the Commission mails notice of the Order to Mr. Elhommoud, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

2/21/08
Date

I, the undersigned, have read and understand the attached Agreed Order. authorized to agree to the attached Agreed Order on behalf of the entity, if a signature, and I do agree to the terms and conditions specified therein. I furth TCEQ, in accepting payment for the penalty amount, is materially relying

I also understand that my failure to comply with the Ordering Provisions, if 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 conte 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 enfo me; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance document prosecution

Signature

2-05-07
Date

Mohammad Elhommoud
Name (Printed or typed)
Authorized representative of
Mohammad Elhommoud dba Sam's Grocery Mart

owner of property
Title