

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-1241-PST-E TCEQ ID NO.: RN100925064 CASE NO.: 26186

RESPONDENT NAME: MOHAMED AHMED AL BATAINEH DBA HARVEST FOOD STORE

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

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

SITE WHERE VIOLATION(S) OCCURRED: 4626 Yale Street, 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 are no other pending enforcement actions regarding this facility.

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on October 12, 2008. No comments were received.

CONTACTS AND MAILING LIST:

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

TCEQ Enforcement Coordinator: Mr. Terry Murphy, Air Enforcement Section, MC 149, (512) 239-5025

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

Respondent: Mr. Mohamed Ahmed Al Bataineh, Owner, Harvest Food Store, 11842 Stone Bridge,
Houston, Texas 77064

Respondent's Attorney: Mr. Charles Duke, Esq., Duke & Momberger, Attorneys at Law, 9225 Katy Freeway,
Suite 200, Houston, Texas 77024

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|---|--|
| <p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Dates of Investigations Relating to this Case: June 9, 2005; July 12, 2005</p> <p>Date of NOE Relating to this Case: July 1, 2005</p> <p>Background Facts:</p> <p>A Default Order was scheduled for consideration at the May 7, 2008, Agenda. On May 6, 2008, the Respondent contacted the ED and agreed to settle the case. The ED received a copy of the signed Agreed Order from the Respondent on May 6, 2008, and the ED remanded this case from the May 7, 2008 Agenda docket.</p> <p>Current Compliance Status:</p> <p>The Respondent no longer owns the Facility. Past due UST fees are still outstanding</p> <p>PST:</p> <p>1) Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>2) Failed to pay outstanding UST Registration late fees for TCEQ Financial Administration Account No. 0057887U [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702].</p> | <p>Total Assessed: \$1,050</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$150/\$900</p> <p>The Respondent has paid \$150 of the administrative penalty. The remaining amount of \$900 shall be payable in 9 monthly payments of \$100 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>The Executive Director recognizes that the Respondent ceased to be the owner and operator of the Facility in August 2004.</p> <p>Ordering Provisions</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1) Within 30 days, submit payment for all outstanding fees, including any associate penalties and interest.</p> <p>2) Within 45 days, submit written documentation to demonstrate compliance with this Ordering Provision.</p> |



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

| | | | | | | |
|--------------|----------|-------------|-----------|-------------|---------|--|
| DATES | Assigned | 05-Jul-2005 | Screening | 14-Jul-2005 | EPA Due | |
| | PCW | 26-Sep-2005 | | | | |

| | |
|--|--|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | Mohamed Ahmed Al Bataineh dba Harvest Food Store |
| Reg. Ent. Ref. No. | RN100925064 |
| Facility/Site Region | 12-Houston < |
| Major/Minor Source | Minor Source < |

| | | | |
|---------------------------------|--------------------------|-------------------|----------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 26186 | No. of Violations | 2 |
| Docket No. | 2005-1241-PST-E | Order Type | 1660 < |
| Media Program(s) | Petroleum Storage Tank < | Enf. Coordinator | David Flores |
| Multi-Media | | EC's Team | Enforcement Team 7 < |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$1,000 |
|---|------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|----------------|---------------------|------|
| Compliance History | 5% Enhancement | Subtotals 2, 3, & 7 | \$50 |
|---------------------------|----------------|---------------------|------|

Notes: The respondent received one NOV, dated 10/20/2003, for the same violation.

| | | | | |
|--------------------|------|----------------|------------|-----|
| Culpability | No < | 0% Enhancement | Subtotal 4 | \$0 |
|--------------------|------|----------------|------------|-----|

Notes: The respondent does not meet the culpability criteria.

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

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

Notes: The respondent has not achieved compliance.

| | | | |
|-------------------------|-----------------|------------|-----|
| Economic Benefit | 0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-----------------|------------|-----|

| | | |
|----------------------------|-------|-----------------------------------|
| Total EB Amounts | \$683 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$650 | |

| | | |
|-----------------------------|----------------|---------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$1,050 |
|-----------------------------|----------------|---------|

| | | |
|---|------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | Adjustment | \$0 |
|---|------------|-----|

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

Notes:

| | |
|-----------------------------|---------|
| Final Penalty Amount | \$1,050 |
|-----------------------------|---------|

| | | |
|-----------------------------------|------------------------|---------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$1,050 |
|-----------------------------------|------------------------|---------|

| | | | |
|-----------------|--------------|------------|-----|
| DEFERRAL | 0% Reduction | Adjustment | \$0 |
|-----------------|--------------|------------|-----|

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

Notes: No deferral recommended due to failure to settle in a timely manner.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$1,050 |
|------------------------|---------|

Screening Date 14-Jul-2005 Store revised bataineh pcw2.gpw
Docket No. 2005-1241-PST-E **PCW**
Respondent Mohamed Ahmed Al Bataineh dba Harvest Food Store Policy Revision 2 (September 2002)
Case ID No. 26186 PCW Revision May 19, 2005
Reg. Ent. Reference No. RN100925064
Media [Statute] Petroleum Storage Tank
Enf. Coordinator David Flores

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>) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| 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 14-Jul-2005 Store revised bataineh pcw2.opw Docket No. 2005-1241-PST-E

PCW

Respondent Mohamed Ahmed Al Bataineh dba Harvest Food Store

Policy Revision 2 (September 2002)

Case ID No. 26186

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN100925064

Media [Statute] Petroleum Storage Tank

Enf. Coordinator David Flores

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|----------------------|----------------------|----------------------|----------------------|
| | | Major | Moderate | Minor | |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Programmatic Matrix

| >> | Falsification | Harm | | | Percent |
|----|---------------|-------------------------------------|--------------------------|--------------------------|----------------------------------|
| | | Major | Moderate | Minor | |
| | | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="text" value="10%"/> |

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 type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input checked="" type="checkbox"/> |

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Mohamed Ahmed Al Bataineh dba Harvest Food Store
 Case ID No. 26186
 Reg. Ent. Reference No. RN100925064
 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 | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

| Avoided Costs | | ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) | | | | | |
|-------------------------------|-------|--|-------------|-----|------|-------|-------|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | \$650 | 04-Aug-2002 | 04-Aug-2003 | 1.0 | \$33 | \$650 | \$683 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs
 The avoided costs include the estimated cost to provide financial assurance for one underground storage tank. Date required (08/04/2002) is one year prior to the initial request to submit proof of financial assurance on 08/04/2003.

Approx. Cost of Compliance **\$650** **TOTAL \$683**

Store revised bataineh.pcw2.gpw
Screening Date 14-Jul-2005 **Docket No.** 2005-1241-PST-E **PCW**
Respondent Mohamed Ahmed Al Bataineh dba Harvest Food Store *Policy Revision 2 (September 2002)*
Case ID No. 26186 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN100925064
Media [Statute] Petroleum Storage Tank
Enf. Coordinator David Flores
Violation Number
Primary Rule Cite(s)
Secondary Rule Cite(s)
Violation Description Failed to pay outstanding Underground Storage Tank Registration late fee for TCEQ Financial Administration Account No. 0057887U as documented during a record review conducted on July 12, 2005.
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"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

Programmatic Matrix

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

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

| | |
|--------------|----------------------|
| daily | <input type="text"/> |
| monthly | <input type="text"/> |
| quarterly | <input type="text"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

Violation Base Penalty

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed during the next billing cycle.

| Economic Benefit (EB) for this violation | Statutory Limit Test |
|--|--|
| Estimated EB Amount <input type="text" value="\$0"/> | Violation Final Penalty Total <input type="text" value="\$0"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$0"/> | |

Economic Benefit Worksheet

Respondent: Mohamed Ahmed Al Bataineh dba Harvest Food Store
 Case ID No. 26186
 Reg. Ent. Reference No. RN100925064
 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) | | | | 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 economic benefit associated with this violation.

| 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 \$0 TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator: CN602301624 .BATAINEH, MOHAMED AHMED AL Classification: AVERAGE Rating: 0.750
Regulated Entity: RN100925064 HARVEST FOOD STORE Classification: AVERAGE Site Rating: 0.75
ID Number(s):
PETROLEUM STORAGE TANK STAGE II REGISTRATION 56836
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG47210
PETROLEUM STORAGE TANK REGISTRATION 56836
REGISTRATION
Location: 4626 YALE ST, HOUSTON, TX, 77018 Rating Date: 9/1/04. Repeat Violator: NO
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: July 27, 2005
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 12, 2000 to July 12, 2005
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Carl Bing Phone: (512) 239-1445

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
6. Comments:

Components (Multimedia) for the Site :

A. Final Enforcement Orders; court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 08/05/2003 (147797)
- 2 07/01/2005 (395539)
- 3 10/20/2003 (280540)
- 4 10/02/2003 (250582)
- 5 06/18/2005 (381077)

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

Date: 10/20/2003 (280540)

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]

30 TAC Chapter 37, SubChapter I 37.815(b)[G]

Description: Failure to provide acceptable Financial Assurance.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MOHAMED AHMED AL
BATAINEH DBA HARVEST FOOD
STORE,
RN100925064

§
§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1241-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mohamed Ahmed Al Bataineh dba Harvest Food Store ("Mr. Bataineh") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Litigation Division, and Mr. Bataineh, appear before the Commission and together stipulate that:

1. Mr. Bataineh owned and operated a convenience store with retail sales of gasoline at 4626 Yale Street in Houston, Harris County, Texas (the "Facility").
2. Mr. Bataineh's underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Bataineh's USTs contain a regulated substance as defined in the rules of the Commission.
3. The Commission and Mr. Bataineh agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Bataineh is subject to the Commission's jurisdiction.
4. Mr. Bataineh received notice of the violations alleged in Section II ("Allegations") on or about July 06, 2005.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Bataineh of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of One Thousand Fifty Dollars (\$1,050.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Bataineh has paid One Hundred Fifty Dollars (\$150.00) of the

administrative penalty. The remaining amount of Nine Hundred dollars (\$900.00) of the administrative penalty shall be payable in nine (9) monthly payments of One Hundred dollars (\$100.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Bataineh fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Mr. Bataineh to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Bataineh 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. Bataineh 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. Bataineh ceased to be the owner and operator of the Facility in August 2004.
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. Bataineh has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, Mr. Bataineh is alleged to have:

1. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks, in violation of 30

TEX. ADMIN. CODE § 37.815(a) and (b), as documented during a record review conducted on June 09, 2005.

2. Failed to pay outstanding Underground Storage Tank Registration late fee for TCEQ Financial Administration Account No. 0057887U, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702, as documented during a record review conducted on July 12, 2005.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Bataineh pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Bataineh's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Mohamed Ahmed Al Bataineh dba Harvest Food Store, Docket No. 2005-1241-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. Within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: Mohamed Ahmed Al Bataineh dba Harvest Food Store; Docket No. 2005-1241-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

3. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Work Leader
Team 5, Section III
Enforcement Division, MC 149
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. The provisions of this Agreed Order shall apply to and be binding upon Mr. Bataineh. Mr. Bataineh 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.
5. If Mr. Bataineh fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Bataineh's failure to comply is not a violation of this Agreed Order. Mr. Bataineh shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Bataineh shall notify the Executive Director within seven days after Mr. Bataineh becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. 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. Bataineh shall be made in writing to the Executive Director. Extensions are not effective until Mr. Bataineh receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Bataineh 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Mr. Bataineh, or three days after the date on which the Commission mails notice of the Order to Mr. Bataineh, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Mohamed Ahmed Al Bataineh dba Harvest Food Store

DOCKET NO. 2005-1241-PST-E

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]

For the Executive Director

9/9/08

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.
- In addition, any falsification of any compliance documents may result in criminal prosecution.

[Handwritten Signature]
Signature

May 6, 2008
Date

Mohamed Al Bataineh
Name (Printed or Typed)
Mohamed Ahmed Al Bataineh

Taxpayer Pro-Se
Title
formerly d/b/a
Harvest Food Store