

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-0388-PST-E TCEQ ID NO: RN102239456
CASE NO.: 29039

RESPONDENT NAME: MOHAMMED MAJEED ARSHAD DBA THE EAGLE STOP

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
<p>SITE WHERE VIOLATION(S) OCCURRED: 101 I-35 Highway NW, Hillsboro, Hill County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 12, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Water Enforcement Section, MC 169, (512) 239-4490 TCEQ Regional Contact: Mr. Frank Bureson, Waco Regional Office, MC R-9, (254) 761-3001 Respondent: Mr. Mohammed Majeed Arshad, Owner, The Eagle Stop, 101 I-35 Highway NW, Hillsboro, Texas 76645 Respondent's Attorney: Not represented by counsel.</p>		

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 checked="" type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 28, 2006 and April 30, 2007</p> <p>Date of NOE Relating to this Case: March 14, 2006</p> <p>Background Facts:</p> <p>The EDPRP was filed on February 9, 2007 and received by the Respondent on February 12, 2007. The Respondent did not file an answer. The facility came into compliance on all but one of the corrective actions, (the Release Determination Report).</p> <p>The Respondent in this case owes \$3,150 from a previous Default Order that became due on August 30, 2007 in case number 2004-1424-PST-E.</p> <p>PST</p> <p>1) Failed to prevent an unauthorized discharge of gasoline [30 TEX. ADMIN. CODE § 334.48(a)].</p> <p>2) Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A), (b)(2), and (b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) and (c)].</p> <p>3) Failed to conduct effective manual or automatic inventory control procedures for all USTs [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>4) Failed to have required UST records readily accessible and available for the inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>5) Failed to ensure that the legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tub or to a nonremoveable point in the immediate area of the fill tube for each UST according to the UST Registration and Self-Certification Form [30 TEX. ADMIN. CODE § 334.8(e)(5)(C)].</p>	<p>Total Assessed: \$11,322</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$11,322</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalties but will be required to do so under the terms of this proposed Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor <input type="checkbox"/> N/A</p> <p>Person Compliance History Classifications: <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor <input type="checkbox"/> N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions</p> <p>The Respondent's delivery certificate is immediately revoked.</p> <p>Corrective Actions</p> <p>The Respondent has taken the following corrective actions:</p> <ol style="list-style-type: none"> 1. Began conducting effective manual or automatic control procedures. 2. Permanently labeled the UST fill tubes. 3. Conducted tests of line leak detectors for performance and operational reliability. 4. Installed and implemented a release detection method for the USTs and piping. 5. Made all records readily available for inspection upon request. <p>Technical Requirements</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1) Within 10 days, send its UST delivery certificate to the Enforcement Division. 2) Within 45 days, submit a Release Determination Report, and conduct cleanup if necessary. 3) Within 90 days, submit certified, notarized correspondence, reports, and documentation required by these Ordering Provisions.



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	20-Mar-2006	Screening	06-Apr-2006	EPA Due	
	PCW	06-Apr-2006				

RESPONDENT/FACILITY INFORMATION					
Respondent	Mohammad Majeed Arshad dba The Eagle Stop				
Reg. Ent. Ref. No.	RN102239456				
Facility/Site Region	9-Waco	Major/Minor Source	Minor Source		

CASE INFORMATION					
Enf./Case ID No.	29039	No. of Violations	5		
Docket No.	2006-0388-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Joseph Daley		
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

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: Enhancement for one NOV without same or similar violations:

Culpability No Subtotal 4

Notes: The respondent does not meet the culpability criteria.

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: The respondent is not yet in compliance.

Economic Benefit 0% Enhancement Subtotal 6

Total EB Amounts	\$428	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$12,100	

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: No deferral is offered with non-expedited cases.

PAYABLE PENALTY

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> 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: Enhancement for one NOV without same or similar violations.

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

Screening Date 05-04-2006

Docket No. 2006-0388-P5

PCW

Respondent Mohammad Majeed Arshad dba The Eagle Stop

Policy Revision 2 (September 2002)

Case ID No. 29039

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102239456

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Joseph Daley

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 checked="" type="text" value="X"/>	<input type="text"/>	<input type="text" value="25%"/>
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

mark only one use a small x	daily	<input type="text"/>
	monthly	<input checked="" type="text" value="X"/>
	quarterly	<input type="text"/>
	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

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent **Mohammad Majeed Arshad dba The Eagle Stop**
 Case ID No. **29039**
 Reg. Ent. Reference No. **RN102239456**
 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	n/a	\$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	\$10,000	28-Feb-2006	01-Nov-2006	0.7	\$337	n/a	\$337
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount required to clean up. Date required is the date of investigation. Final date is the estimated 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 \$10,000 TOTAL \$337

Screening Date 04-06-2006 Docket No. 2006-0388-PS

PCW

Respondent Mohammad Majeed Arshad dba The Eagle Stop

Policy Revision 2 (September 2002)

Case ID No. 29039

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102239456

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Joseph Daley

Violation Number 2

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

Violation Description Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the respondent did not put the automatic tank gauge (ATG) into test mode at least once per month and the ATG had no power source. Failed to provide release detection for the piping associated with the USTs. Specifically, the respondent did not conduct monthly monitoring or annual piping tightness test. Failed to test the line leak detector at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm				
Release		Major	Moderate	Minor		
OR	Actual				Percent 25%	
	Potential	X				

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor		
						Percent	
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.						

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of February 28, 2006 to the screening date of April 6, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$47

Violation Final Penalty Total \$2,550

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

Economic Benefit Worksheet

Respondent Mohammad Majeed Arshad dba The Eagle Stop
 Case ID No. 29039
 Reg. Ent. Reference No. RN102239456
 Media [Statute] Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Percent Interest	Years of Depreciation
						Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	28-Feb-2006	01-Nov-2006	0.7	\$2	\$45	\$47
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 delayed cost includes the estimated amount required to monitor the tanks and the pressurized underground lines in a manner which would detect releases at a frequency of at least once every month and to test the line leak detector at least once per year for performance and operational reliability. Date required is the date of investigation. Final date is the estimated 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 \$1,000 TOTAL \$47

Screening Date 05/04/2006 **Docket No.** 2006-0388-PS **PCW**
Respondent Mohammad Majeed Arshad dba The Eagle Stop *Policy Revision 2 (September 2002)*
Case ID No. 29039 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN102239456
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Joseph Daley
Violation Number 3
Primary Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)
Secondary Rule Cite(s)
Violation Description Failure to conduct effective manual or automatic inventory control procedures for all USTs. Specifically, beginning inventory, deliveries, book inventory, ending inventory, and daily over/short total were not being maintained.
Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent 25%
	Potential	X			

>> **Programmatic Matrix**

		Major	Moderate	Minor	
Falsification					Percent

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1
mark only one use a small x
 daily
 monthly
 quarterly X
 semiannual
 annual
 single event

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of February 28, 2006 to the screening date of April 6, 2006.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$17	Violation Final Penalty Total \$2,550
This violation Final Assessed Penalty (adjusted for limits) \$2,550	

Economic Benefit Worksheet

Respondent: Mohammad Majeed Arshad dba The Eagle Stop
 Case ID No. 29039
 Reg. Ent. Reference No. RN102239456
 Media [Statute] Petroleum Storage Tank
 Violation No. 3

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	\$500	28-Feb-2006	01-Nov-2006	0.7	\$17	n/a	\$17
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 delayed cost includes the estimated amount required to conduct effective manual or automatic inventory control procedures for all USTs. Date required is the date of investigation. Final date is the estimated date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$500 TOTAL \$17

Screening Date 05-04-2006 Docket No. 2006-0388-PS

PCW

Respondent Mohammad Majeed Arshad dba The Eagle Stop
 Case ID No. 29039
 Reg. Ent. Reference No. RN102239456

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Joseph Daley

Violation Number 4

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Secondary Rule Cite(s)

Violation Description Failed to have required UST records readily accessible and available for the inspection upon request by agency personnel. Specifically, the financial assurance records were not available.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
Release		Major	Moderate	Minor	
Actual					Percent
Potential					

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	
			X	Percent 1%

Matrix Notes The respondent failed to comply with less than 30% of the rule requirement.

Adjustment -\$9,900

Base Penalty Subtotal \$100

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 \$100

One single event is recommended based on the investigation date of February 28, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$102

This violation Final Assessed Penalty (adjusted for limits) \$102

Economic Benefit Worksheet

Respondent Mohammad Majeed Arshad dba The Eagle Stop
 Case ID No. 29039
 Reg. Ent. Reference No. RN102239456
 Media [Statute] Petroleum Storage Tank
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item	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	\$100	28-Feb-2006	01-Nov-2006	0.7	\$3	n/a	\$3
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 delayed cost includes the estimated amount required to have required records readily accessible and available for the inspection upon request by agency personnel. Date required is the date of investigation. Final date is the estimated 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 \$100

TOTAL \$3

Screening Date 05/04/2006

Docket No. 2006-0388-PS

PCW

Respondent Mohammad Majeed Arshad dba The Eagle Stop

Policy Revision 2 (September 2002)

Case ID No. 29039

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102239456

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Joseph Daley

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Secondary Rule Cite(s)

Violation Description

Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each UST according to the UST registration and self-certification form. Specifically, the respondent did not number the USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

		Harm			
		Major	Moderate	Minor	
OR	Actual				Percent
	Potential				

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	X			Percent 10%

Matrix Notes The respondent failed to comply with 100% of the rule requirement.

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 on the investigation dated of February 28, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$1,020

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

Economic Benefit Worksheet

Respondent Mohammad Majeed Arshad dba The Eagle Stop
 Case ID No. 29039
 Reg. Ent. Reference No. RN102239456
 Media [Statute] Petroleum Storage Tank
 Violation No. 5

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	\$500	28-Feb-2006	01-Nov-2006	0.7	\$1	\$22	\$24
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to label the tank fill parts. Date required is the date of investigation. Final date is the estimated date of compliance.

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

Notes for AVOIDED costs:

Approx. Cost of Compliance \$500 TOTAL \$24

Compliance History

Customer/Respondent/Owner-Operator: CN601195316 ARSHAD, MOHAMMAD MAJEED Classification: AVERAGE Rating: 1.00
Regulated Entity: RN102239456 THE EAGLE STOP Classification: AVERAGE Site Rating: 1.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 47549
Location: 101 I 35 HWY NW, HILLSBORO, TX, 76645 Rating Date: September 01 05 Repeat Violator: NO
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: April 26, 2006
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 06, 2001 to April 06, 2006

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

Name: Joseph Daley Phone: 817-588-5928

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 approval dates of investigations. (CCEDS Inv. Track. No.)
108/26/2004 (288524)
202/25/2003 (276260)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 02/25/2003 (276260)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
30 TAC Chapter 37, SubChapter I 37.815(b)[G]
Description: Failure to provide acceptable financial assurance
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MOHAMMED MAJEED ARSHAD
DBA THE EAGLE STOP
RN102239456**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2006-0388-PST-E**

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, 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 Mohammed Majeed Arshad dba The Eagle Stop ("Arshad").

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

FINDINGS OF FACT

1. Arshad owns a convenience store with retail sales of gasoline located at 101 I-35 Highway NW, in Hillsboro, Hill County, Texas (the "Facility").
2. Arshad's four underground storage tank(s) ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Arshad's USTs contain a regulated substance as defined in the rules of the Commission.
3. During an inspection on February 28, 2006, a TCEQ Waco Regional Office investigator documented that Arshad:
 - a. Failed to prevent an unauthorized discharge of gasoline. Specifically, the presence of a strong odor of gasoline and free product was discovered in and around the submerged pump and underneath the dispensers;
 - b. Failed to monitor UST's for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the respondent did not put

the automatic tank gauge (ATG) into test mode at least once per month and the ATG had no power source. Arshad also failed to provide release detection for the piping associated with the USTs; specifically, Arshad did not conduct monthly monitoring or annual piping tightness tests. Finally, Arshad failed to test the line leak detector at least once per year for performance and operational reliability; specifically, the line leak detectors had not been performance tested annually;

- c. Failed to conduct effective manual or automatic inventory control procedures for all USTs. Specifically, beginning inventory, deliveries, book inventory, ending inventory, and daily over/short totals were not maintained;
 - d. Failed to have required UST records readily accessible and available for the inspection upon request by agency personnel. Specifically, the financial assurance records were not available;
 - e. Failed to ensure that the legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tub or to a nonremoveable point in the immediate area of the fill tube for each UST according to the UST registration and self-certification form. Specifically, the USTs were not numbered.
4. Arshad received notice of the violations on or about March 14, 2006.
 5. The Executive Director recognizes that Arshad has implemented the following corrective measures at the Facility in response to this enforcement action prior to April 30, 2007:
 - a. Began conducting effective manual or automatic inventory control procedures for all UST's in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - b. Permanently labeled the UST fill tubes, in accordance with 30 TEX. ADMIN. CODE § 334.8;
 - c. Conducted tests of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - d. Installed and implemented a release detection method for the USTs and piping associated with the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.50, and

- e. Made all records are readily accessible and available for the inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10.
6. 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 Majeed Arshad dba The Eagle Stop" (the "EDPRP") in the TCEQ Chief Clerk's office on February 9, 2007.
7. By letter dated February 9, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Arshad with notice of the EDPRP. According to the return receipt "green card", Arshad received notice of the EDPRP prior to February 12, 2007, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Arshad received notice of the EDPRP, provided by the Executive Director. Arshad failed to file an answer to the EDPRP, 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, Arshad is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Arshad failed to prevent an unauthorized discharge of gasoline, in violation of 30 TEX. ADMIN. CODE § 334.48(a).
3. As evidenced by Finding of Fact No. 3.b., Arshad failed to monitor UST's for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, Arshad did not put the automatic tank gauge (ATG) into test mode at least once per month and the ATG had no power source. Arshad also failed to provide release detection for the piping associated with the USTs. Specifically, Arshad did not conduct monthly monitoring or annual piping tightness tests. Finally, Arshad failed to test the line leak detector at least once per year for performance and operational reliability; specifically, the line leak detectors had not been performance tested annually; in violation of 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A), 334.50(b)(2), and 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) and (c).

4. As evidenced by Finding of Fact No. 3.c., Arshad failed to conduct effective manual or automatic inventory control procedures for all USTs, in violation of 30 TEX. ADMIN CODE § 334.48(c).
5. As evidenced by Finding of Fact No. 3.d., Arshad failed to have required UST records readily accessible and available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
6. As evidenced by Finding of Fact No. 3.e., Arshad failed to ensure that the legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tub or to a nonremoveable point in the immediate area of the fill tube for each UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).
7. As evidenced by Finding of Fact Nos. 6 and 7 the Executive Director has timely served Arshad with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 8, Arshad 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 Arshad and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Arshad for violations of the Texas Water Code and the Texas Health and Safety 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.
10. An administrative penalty in the amount of Eleven Thousand Three Hundred Twenty-Two dollars (\$11,322.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. 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.
12. Pursuant to 30 TEX. ADMIN. CODE §334.8(c)(6), the Commission has authority to revoke Arshad's UST delivery certificate if the Commission finds that good cause exists.

13. Good cause for revocation of Arshad's UST delivery certificate exists as justified by Finding of Fact Nos. 3,4,6,7,& 8 and Conclusion of Law Nos. 2-8.

ORDERING PROVISIONS

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

1. Arshad is assessed an administrative penalty in the amount of Eleven Thousand Three Hundred Twenty-Two dollars (\$11,322.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Arshad'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: Majeed Arshad dba The Eagle Stop; Docket No. 2006-0388-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. Arshad's UST delivery certificate is revoked immediately upon the effective date of this Order. Arshad may submit an application for a new delivery certificate only after Arshad has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Arshad shall send its UST delivery certificate to:

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

4. Arshad shall undertake the following technical requirements:

- a. Within 45 days after the effective date of this Order, Arshad shall submit a Release Determination Report, pursuant to 30 TEX. ADMIN. CODE § 334.72, to the Executive Director for approval and conduct cleanup if necessary.
- b. Within 90 days after the effective date of this Order, Arshad shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

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

and

Mr. Frank Burleson, Waste Section Manager
Texas Commission on Environmental Quality
Waco Regional Office
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710-7826

The documentation required shall include a certification notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that this documentation and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, and those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, 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.”

5. All relief not expressly granted in this Order is denied.

6. The provisions of this Order shall apply to and be binding upon Arshad. Arshad is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. If Arshad fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Arshad's failure to comply is not a violation of this Order. Arshad shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Arshad shall notify the Executive Director within seven days after Arshad becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Arshad shall be made in writing to the Executive Director. Extensions are not effective until Arshad receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. 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 Arshad if the Executive Director determines that Arshad has not complied with one or more of the terms or conditions in this Order.
10. 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.
11. 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 REBECCA M. COMBS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Rebecca M. Combs. 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, I 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 Majeed Arshad dba The Eagle Stop” (the “EDPRP”) with the Office of the Chief Clerk on February 9, 2007.

I sent the EDPRP to Arshad at it his last known address on February 9, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Arshad received notice of the EDPRP on or before February 12, 2007, as evidenced by the signature on the card.

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



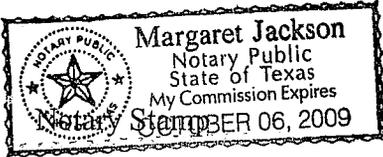
Rebecca M. Combs
Attorney
Texas Commission on Environmental Quality

Affidavit of Rebecca M. Combs

Page 2

Before me, the undersigned authority, on this day personally appeared Rebecca M. Combs, 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 23 day of August 2007.



Margaret Jackson
Notary Signature