

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

**DOCKET NO.: 2005-1344-PST-E TCEQ ID: RN103025011 CASE NO.: 26252
RESPONDENT NAME: HUSSAIN MOHAMMAD DHANJI DBA BILL'S DRIVE IN**

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: 616 North Wharton Street, El Campo, Wharton 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: Mr. Shawn Slack, Litigation Division, MC 175, (512) 239-0063 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. John Muennink, Air Enforcement Section, MC R-14, (361) 825-3423 TCEQ Regional Contact: Mr. Stephen Smith, Houston Regional Office, MC R-12, (713) 767-3581 Respondent: Mr. Hussain Mohammad Dhanji, Owner, 2323 Long Reach Drive. Apt. 11102, Sugarland, Texas 77478 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: February 23, 2005, July 1, 2005, and July 21, 2005 (Record Review)</p> <p>Date of NOV/NOE Relating to this Case: February 23, 2005 (NOV) July 19, 2005 (NOE)</p> <p>Background Facts:</p> <p>The Executive Director filed the EDRP on December 14, 2005. On December 16, 2005, the recipient received the EDRP; however, it was later determined that the individual served was not the correct party. The Executive Director filed and sent the EDFARP via certified mail, return receipt requested on May 22, 2006. On June 1, 2006, the EDFARP as documented by the green card was received and signed by the Respondent. By letter dated August 11, 2006, the Executive Director filed and sent via certified mail, return receipt requested the EDSARP. The US Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that the Respondent received notice of the EDSARP. The Executive Director filed and sent via certified mail, return receipt requested the EDTARP on March 9, 2007. The Respondent received the EDTARP on March 19, 2007, as evidenced by the signature on the green card. The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST</p> <p>1. Failed to provide financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs effective on December 1, 2004 [30 TEX. ADMIN. CODE § 37.815(a) and (b)]</p>	<p>Total Assessed: \$3,150</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$3,150</p> <p>This is a Default Order.</p> <p>The Respondent has not paid any of the assessed penalties, but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken:</p> <p>The Executive Director recognizes that the Respondent no longer owns or operates the Facility.</p> <p>Technical Requirement(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> 1. Within 30 days, pay all outstanding UST registration fees for Financial Administration Account No. 62787U. 2. Within 45 days, submit written certification notarized by a State of Texas Notary Public and include detailed supporting documentation including photographs, receipts, and or other records to demonstrate compliance with Ordering Provision No. 1.

<p>2. Failed to pay UST registration fees associated with TCEQ Financial Administration Account No. 62787U for Fiscal Year 2005 [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702]</p>		
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Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

ICEQ	DATES	Assigned	18-Jul-2005		
	PCW	18-Jul-2006	Screening	28-Jul-2005	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	Hussain Mohammad Dhanjl
Reg. Ent. Ref. No.	RN103025011
Facility/Site Region	12-Houston
Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	26252	No. of Violations	2
Docket No.	2005-1344-PST-E	Order Type	Findings
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	John Muennink
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5% Enhancement	Subtotal 2, 3, & 7	\$150
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Notes: Enhancement due to one prior written NOV with the same or similar violation.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes: Respondent does not meet culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: Respondent has not returned to compliance.

Economic Benefit	0% Enhancement	Subtotal 6	\$0
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Total EB Amounts	\$1,969	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,875	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,150
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount	\$3,150
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,150
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DEFERRAL	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral offered because this is not an expedited order.

PAYABLE PENALTY	\$3,150
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Screening Date	28-Jul-2005	Docket No.	2005-1344-PST-E	PCW
Respondent	Hussain Mohammad Dhanjl	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	26252	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN103025011			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	John Muennink			

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 (number of events)		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%
<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) 5%

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes Enhancement due to one prior written NOV with the same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date	28-Jul-2005	Docket No.	2005-1344-PST-E	PCW
Respondent	Hussain Mohammad Dhanjl	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	26252	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN103025011			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	John Muennink			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)			
Secondary Rule Cite(s)				
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental release arising from the operation of petroleum underground storage tanks (USTs).			
Base Penalty	\$10,000			

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	X			10%

Matrix Notes: The Respondent failed to meet 100% of the rule requirement.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$3,000

Three single events (one for each tank) are recommended.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$1,969

Violation Final Penalty Total \$3,150

This violation Final Assessed Penalty (adjusted for limits) \$3,150

Economic Benefit Worksheet

Respondent: Hussain Mohammad Dhanjl
 Case ID No: 26252
 Reg. Ent. Reference No: RN103025011
 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
No commas or \$							

Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,875	01-Dec-2003	01-Dec-2004	1.0	\$94	\$1,875	\$1,969
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Estimated cost to provide financial assurance for the petroleum USTs for the 12 months preceding the date of the initial letter requesting such documents.							

Approx. Cost of Compliance \$1,875

TOTAL \$1,969

Screening Date	28-Jul-2005	Docket No.	2005-1344-PST-E	PCW
Respondent	Hussain Mohammad Dhanjl			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	26252			<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No.	RN103025011			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	John Muennink			

Violation Number	<input type="text" value="2"/>
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.22(a)
Secondary Rule Cite(s)	Tex. Water Code § 5.702
Violation Description	Failed to pay UST registration fees for Fiscal Year 2005 associated with TCEQ Financial Administration Account No. 62787U, as documented during an investigation conducted on July 21, 2005.
Base Penalty	<input type="text" value="\$10,000"/>

>> **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"/>	<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

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

single event

Violation Base Penalty

No penalty is recommended at this time since penalties and interest will be assessed at the time of the next billing.

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 Hussain Mohammad Dhanji
 Case ID No. 26252
 Reg. Ent. Reference No. RN103025011
 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
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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: Not applicable.							

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: Not applicable.							

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN602725830 Bill's Drive Ins, Inc.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN103025011 BILLS DRIVE IN	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	36876
Location:	616 N WHARTON ST, EL CAMPO, TX, 77437	Rating Date: 9/1/2004 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	August 12, 2005		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	July 21, 2000 to July 21, 2005		

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

Name: John Muennink Phone: (713) 767-3607

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1 07/14/2005 (398665)

2 02/23/2005 (398291)

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

Date: 02/23/2005 (398291)

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
HUSSAIN MOHAMMAD DHANJI
DBA BILL'S DRIVE IN;
RN103025011

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-1344-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Third Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 5, 7 and 26, 30 TEX. ADMIN. CODE chs. 37, 70 and 334, 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 Hussain Mohammad Dhanji dba Bill's Drive In ("Respondent" or "Mr. Dhanji").

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

FINDINGS OF FACT

1. At the time of the violation, Respondent owned and operated a convenience store with retail sales of gasoline located at 616 N. Wharton Street, El Campo, Wharton County, Texas (the "Facility").
2. At the time of the violation, Respondent's three (3) underground storage tanks ("USTs") were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission and Respondent's USTs contained a regulated petroleum substance as defined in the rules of the Commission.
3. During a record review conducted on or about July 1, 2005, TCEQ Central Office staff documented that Respondent violated 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs effective on December 1, 2004.
4. During a record review conducted on or about July 21, 2005, TCEQ Central Office staff documented that Respondent violated 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER

CODE § 5.702 by failing to pay UST registration fees associated with TCEQ Financial Administration Account No. 62787U for Fiscal Year 2005.

5. Respondent received notice of the violation in paragraph 3 on or about July 19, 2005.
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 Bill's Drive Ins, Inc. dba Bill's Drive In" (the "EDPRP") in the TCEQ Chief Clerk's office on December 14, 2005.
7. By letter dated December 14, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Bill's Drive Ins with notice of the EDPRP. According to the return receipt "green card," the individual served received notice of the EDPRP on December 16, 2005, as evidenced by the signature on the card; however, it was later determined that the individual served was not the correct party.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bill's Drive Ins, Inc. dba Bill's Drive In" (the "EDFARP") in the TCEQ Chief Clerk's office on May 22, 2006.
9. By letter dated May 22, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Bill's Drive Ins with notice of the EDFARP. According to the return receipt "green card," Mr. Dhanji received notice of the EDFARP on June 1, 2006, as evidenced by the signature on the card.
10. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Hussain Mohammad Dhanji [sic], Sam Noorani, and SSN Investments, LLC" (the "EDSARP") in the TCEQ Chief Clerk's office on August 11, 2006.
11. By letter dated August 11, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Dhanji with notice of the EDSARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Mr. Dhanji received notice of the EDSARP.

12. The Executive Director filed the "Executive Director's Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Hussain Mohammad Dhanji dba Bill's Drive In" (the "EDTARP") in the TCEQ Chief Clerk's office on March 9, 2007.
13. By letter dated March 9, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Dhanji with notice of the EDTARP. According to the return receipt "green card," Mr. Dhanji received notice of the EDTARP on March 19, 2007, as evidenced by the signature on the card.
14. More than 20 days have elapsed since Mr. Dhanji received notice of the EDTARP provided by the Executive Director. Mr. Dhanji failed to file an answer to the EDTARP, or file an answer at any other time, failed to request a hearing, and failed to schedule a settlement conference.
15. The Executive Director recognizes that Mr. Dhanji no longer owns or operates the Facility.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Dhanji is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5, 7 and 26, and 30 TEX. ADMIN. CODE chs. 37, 70 and 334 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Dhanji failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs effective on December 1, 2004, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact No. 4, Mr. Dhanji failed to pay UST registration fees associated with TCEQ Financial Administration Account No. 62787U for Fiscal Year 2005, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702.
4. As evidenced by Finding of Fact Nos. 12 and 13, the Executive Director has timely served Mr. Dhanji with proper notice of the EDTARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 14, Mr. Dhanji has failed to file a timely answer to the EDTARP, or file an answer at any other time, 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 Mr. Dhanji and assess the penalty recommended by the Executive Director.

6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Dhanji 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.
7. An administrative penalty in the amount of three thousand one hundred fifty dollars (\$3,150.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Mr. Dhanji is assessed an administrative penalty in the amount of three thousand one hundred fifty dollars (\$3,150.00) for violations of TEX. WATER CODE ch. 26 and rules of the TCEQ. The payment of this administrative penalty and Mr. Dhanji'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: Hussain Mohammad Dhanji dba Bill's Drive In; Docket No. 2005-1344-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Dhanji shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Order, Respondent shall pay all outstanding UST registration fees for Financial Administration Account No. 62787U. Payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Hussain Mohammad Dhanji dba Bill's Drive In, Financial Administration Account No. 62787U" 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

- b. Within 45 days after the effective date of this Order, Respondent shall 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.a.

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:

Stephen Smith, Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Dhanji. Mr. Dhanji is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility's operations referenced in this Order.
5. If Mr. Dhanji 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, Mr. Dhanji's failure to comply is not a violation of this Order. Mr. Dhanji shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Dhanji shall notify the Executive Director within seven days after Mr. Dhanji 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 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 Mr. Dhanji shall be made in writing to the Executive Director. Extensions are not effective until Mr. Dhanji receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Mr. Dhanji if the Executive Director determines that Mr. Dhanji has not complied with one or more of the terms or conditions in this Order.
8. 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.
9. 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.

Hussain Mohammad Dhanji dba Bill's Drive In
Docket No. 2005-1344-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHAWN A. SLACK

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bill’s Drive Ins, Inc. dba Bill’s Drive In” (the “EDPRP”) was filed with the Office of the Chief Clerk on December 14, 2005.

The EDPRP was sent to Bill’s Drive Ins, Inc. at its last known address on December 14, 2005, sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” the individual served received notice of the EDPRP on December 16, 2005, as evidenced by the signature on the card; however, it was later determined that the individual served was not the correct party.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Bill’s Drive Ins, Inc. dba Bill’s Drive In” (the “EDFARP”) was filed with the Office of the Chief Clerk on May 22, 2006.

The EDFARP was sent to Bill’s Drive Ins, Inc. at its last known address on May 22, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Dhanji received notice of the EDFARP on June 1, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Hussain Mohammad Dhanjl [sic], Sam Noorani, and SSN Investments, LLC” (the “EDSARP”) was filed with the Office of the Chief Clerk on August 11, 2006.

The EDSARP was sent to Mr. Dhanji at his last known address on August 11, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Mr. Dhanji received notice of the EDSARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

Affidavit of Shawn A. Slack
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I filed the "Executive Director's Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Hussain Mohammad Dhanji dba Bill's Drive In" (the "EDTARP") with the Office of the Chief Clerk on March 9, 2007.

I sent the EDTARP to Mr. Dhanji at his last known address on March 9, 2007, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Dhanji received notice of the EDTARP on March 19, 2007, as evidenced by the signature on the card.

More than 20 days have elapsed since Mr. Dhanji received notice of the EDTARP. Mr. Dhanji failed to file an answer to the EDTARP, or file an answer at any time, failed to request a hearing, and failed to schedule a settlement conference."



Shawn A. Slack
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 27 day of August, A.D., 2007.

