

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2005-0023-PST-E TCEQ ID: RN102430840 CASE NO.: 23403
RESPONDENT NAME: MOHAMMAD A. GHENE DBA SUPER FOOD MART 12

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
<p>SITE WHERE VIOLATION(S) OCCURRED: 302 West Duval Street, Troup, Smith 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 was one complaint, but the complainant has not indicated a desire to protest this action or to speak at agenda. 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 5, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Mary Hammer, Litigation Division, MC 175, (512) 239-2496 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Mr. Sandy VanCleave, Water Enforcement Section, MC 169, (512) 239-0667 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Mohammad A. Ghene, Owner, Super Food Mart 12, 302 West Duval Street, Troup, Texas 75789 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: November 23, 2004</p> <p>Dates of Investigation Relating to this Case: November 29, 2004</p> <p>Date of NOE Relating to this Case: December 13, 2004</p> <p>Background Facts: An EDPRP was filed on November 30, 2006. A settlement agreement was reached with the Respondent on June 14, 2007 and a signed Agreed Order was received on July 19, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST</p> <ol style="list-style-type: none"> Failed to perform an operability test on the cathodic protection system for the UST system at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d)]. Failed to report to the TCEQ within 24 hours the monitoring results associated with vapor monitoring [30 TEX. ADMIN. CODE § 334.72(3)]. Failed to conduct an investigation and confirmation steps within 30 days of discovery of a suspected release [30 TEX. ADMIN. CODE § 334.74]. 	<p>Total Assessed: \$14,500</p> <p>Total Deferred: \$0</p> <p>Total Paid/Due to General Revenue: \$500/\$14,000</p> <p>The Respondent has paid \$500 of the \$14,500 administrative penalty. The remaining amount of \$14,000 shall be payable in thirty-five (35) monthly payments of \$400 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>Technical Requirements</p> <p>Within 30 days, the Respondent shall:</p> <ol style="list-style-type: none"> Conduct an investigation and complete the confirmation steps of the release investigation and submit a detailed description of the procedures and results outlined in the investigation; and Perform an operability test on the cathodic protection system for the UST system.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) PCW Revision December 10, 2004

DATES	Assigned 20-Dec-2004	Screening 04-Jan-2005	Priority Due 18-Feb-2005	EPA Due	
	PCW 28-Nov-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mohammad A. Ghene dba Super Food Mart 12
Reg. Ent. Ref. No.	RN102430840
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 41202
Facility/Site Region	5-Tyler <input type="text"/> Major/Minor Source
	Minor Source <input type="text"/>

CASE INFORMATION			
Enf./Case ID No.	23403	No. of Violations	3
Docket No.	2005-0023-PST-E	Order Type	1660 without deferral <input type="text"/>
Case Priority	3 <input type="text"/>	Enf. Coordinator	Sandy VanCleave <input type="text"/>
Media Program(s)	Petroleum Storage Tank <input type="text"/>	EC's Team	Enforcement Team 5 <input type="text"/>
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 <input style="width: 100px;" type="text" value="\$14,500"/>
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.	
Compliance History 0% Enhancement	Subtotals 2, 3, & 7 <input style="width: 100px;" type="text" value="\$0"/>
Notes <input style="width: 90%; height: 20px;" type="text" value="No change due to average performer classification."/>	
Culpability No <input type="text"/> 0% Enhancement	Subtotal 4 <input style="width: 100px;" type="text" value="\$0"/>
Notes <input style="width: 90%; height: 20px;" type="text" value="The Respondent does not meet the culpability criteria."/>	
Good Faith Effort to Comply 0% Reduction	Subtotal 5 <input style="width: 100px;" type="text" value="\$0"/>
Before NOV NOV to EDPRP/Settlement Offer Extraordinary <input type="text"/> <input type="text"/> Ordinary <input type="text"/> <input type="text"/> N/A X (mark with a small x)	
Notes <input style="width: 90%; height: 20px;" type="text" value="The Respondent is not yet in compliance."/>	
Economic Benefit 0% Enhancement*	Subtotal 6 <input style="width: 100px;" type="text" value="\$0"/>
*Capped at the Total EB \$ Amount	
Total EB Amounts <input style="width: 80px;" type="text" value="\$423"/>	
Approx. Cost of Compliance <input style="width: 80px;" type="text" value="\$2,600"/>	
SUM OF SUBTOTALS 1-7	Final Subtotal <input style="width: 100px;" type="text" value="\$14,500"/>
OTHER FACTORS AS JUSTICE MAY REQUIRE <input style="width: 80px;" type="text"/>	Adjustment <input style="width: 100px;" type="text" value="\$0"/>
Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)	
Notes <input style="width: 90%; height: 20px;" type="text"/>	
	Final Penalty Amount <input style="width: 100px;" type="text" value="\$14,500"/>
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty <input style="width: 100px;" type="text" value="\$14,500"/>
DEFERRAL <input style="width: 80px;" type="text" value="0%"/> Reduction	Adjustment <input style="width: 100px;" type="text" value="\$0"/>
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)	
Notes <input style="width: 90%; height: 20px;" type="text" value="No deferral is recommended because this is not an expedited case."/>	
PAYABLE PENALTY	<input style="width: 100px;" type="text" value="\$14,500"/>

Screening Date 04-Jan-2005	Docket No. 2005-0023-PST-E	PCW
Respondent Mohammad A. Ghene dba Super Food Mart 12		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 23403		<i>PCW Revision December 10, 2004</i>
Reg. Ent. Reference No. RN102430840		
Additional ID No(s). Petroleum Storage Tank Facility ID No. 41202		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Sandy VanCleave		
Site Address	302 W. Duval Street, Troup, Smith County Texas	

Compliance History Worksheet

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

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	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%
<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) 0%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes No change due to average performer classification.

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

Screening Date 04-Jan-2005

Docket No. 2005-0023-PST-E

PCW

Respondent Mohammad A. Ghene dba Super Food Mart 12

Policy Revision 2 (September 2002)

Case ID No. 23403

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN102430840

Additional ID No(s). Petroleum Storage Tank Facility ID No. 41202

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

		Harm				
Release		Major	Moderate	Minor		
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text" value="25%"/>
	Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor		
		<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent	<input type="text"/>
Matrix Notes	<input type="text" value="Failure to perform an operability test on the cathodic protection system could result in a release of a significant amount of gasoline which would exceed the levels that are protective of human health or environmental receptors."/>						

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<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 Mohammad A. Ghene dba Super Food Mart 12
 Case ID No. 23403
 Reg. Ent. Reference No. RN102430840
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 41202
 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)	\$1,000	29-Nov-2001	31-Dec-2005	4.1	\$205	n/a	\$205

Notes for DELAYED costs: Estimated cost to perform an operability test on the cathodic protection system for the UST system and inspect the rectifier box. Date required is three years prior to the investigation date and final date is estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 **\$205**

Screening Date 04-Jan-2005

Docket No. 2005-0023-PST-E

PCW

Respondent Mohammad A. Ghene dba Super Food Mart 12

Policy Revision 2 (September 2002)

Case ID No. 23403

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN102430840

Additional ID No(s). Petroleum Storage Tank Facility ID No. 41202

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<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 Mohammad A. Ghene dba Super Food Mart 12
 Case ID No. 23403
 Reg. Ent. Reference No. RN102430840
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 41202
 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

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	\$100	18-Feb-2004	17-Nov-2004	0.7	\$4	\$75	\$79
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

Estimated cost to report results from a release detection method that indicates a release may have occurred. Date required is the date that the Respondent was required to report the first suspected release and the final date is the date the Respondent was required to report the last suspected release.

Approx. Cost of Compliance

TOTAL

Screening Date 04-Jan-2005

Docket No. 2005-0023-PST-E

PCW

Respondent Mohammad A. Ghene dba Super Food Mart 12

Policy Revision 2 (September 2002)

Case ID No. 23403

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN102430840

Additional ID No(s). Petroleum Storage Tank Facility ID No. 41202

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Sandy VanCleave

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Failed to conduct an investigation and confirmation steps within 30 days of discovery of a suspected release. Specifically, during the investigation it was documented that the Respondent failed to conduct an investigation within 30 days after the date (February 17, 2004) the vapor monitoring reports revealed a suspected release.

Base Penalty

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

OR

		Harm		
Release		Major	Moderate	Minor
Actual				
Potential	X			

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

Failure to investigate suspected releases from the USTs can result in the exposure of a significant amount of contaminants which may exceed levels that are protective to human health and the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty

Two quarterly events are recommended for the time frame from the date of the investigation, November 29, 2004, to the settlement termination date, April 19, 2005.

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 A. Ghene dba Super Food Mart 12
 Case ID No. 23403
 Reg. Ent. Reference No. RN102430840
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 41202
 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				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$1,500	17-Feb-2004	31-Dec-2005	1.9	\$140	n/a	\$140
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to investigate and complete the confirmation steps for a suspected release. Date required is the date when vapor monitoring reports revealed a suspected release and the final date is the date that 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 TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN601196793	GHENE, MOHAMMAD A	Classification: AVERAGE	Rating: 3.010
Regulated Entity:	RN102430840	SUPER FOOD MART 12	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	41202
Location:	302 W DUVAL ST, TROUP, TX, 75789		Rating Date: 9/1/04 Repeat Violator: NO	
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	February 09, 2005			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 29, 1999 to December 29, 2004			

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

Name: Sandy VanCleave Phone: (512) 239-0667

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? | <u>N/A</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>N/A</u> |
| 5. When did the change(s) in ownership occur? | <u>N/A</u> |

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.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MOHAMMAD A. GHENE DBA
SUPER FOOD MART 12,
RN102430840

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2005-0023-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Mohammad A. Ghene dba Super Food Mart 12 ("Mr. Ghene") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Ghene, appear before the Commission and together stipulate that:

1. Ghene owns and operates a convenience store with retail sales of gasoline located at 302 West Duval Street in Troup, Smith County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Ghene agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Ghene is subject to the Commission's jurisdiction.
4. Mr. Ghene received notice of the violations alleged in Section II ("Allegations") on or about December 18, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Ghene of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of fourteen thousand five hundred dollars (\$14,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Ghene has paid five hundred dollars (\$500.00) of the administrative

penalty. The remaining amount of fourteen thousand dollars (\$14,000.00) shall be payable in thirty-five monthly payments of four hundred dollars (\$400.00) 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. Ghene 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. Ghene to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Ghene 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. Ghene have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. 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. Ghene has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Ghene is alleged to have violated the following requirements, as documented during an investigation conducted on November 29, 2004:

1. 30 TEX. ADMIN. CODE § 334.49(c)(4)(C) and TEX. WATER CODE § 26.3475(d) by failing to perform an operability test on the cathodic protection system for the UST system at a frequency of at least once every three years;
2. 30 TEX. ADMIN. CODE § 334.72(3) by failing to report to the TCEQ within 24 hours the monitoring results associated with vapor monitoring. Specifically, during the investigation, a review of the monitoring results from the monthly vapor analysis report revealed a suspected

release on the following monitoring dates: February 17, March 16, May 18, July 20, September 21, October 20 and November 16, 2004; and

3. 30 TEX. ADMIN. CODE § 334.74 by failing to conduct an investigation and confirmation steps within 30 days of discovery of a suspected release. Specifically, during the investigation, it was documented that Mr. Ghene failed to conduct an investigation within 30 days after the date (February 17, 2004) the vapor monitoring reports revealed a suspected release.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Ghene pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Ghene's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Mohammad A. Ghene dba Super Food Mart 12, Docket No. 2005-0023-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. Ghene shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Mr. Ghene shall:
 - i. Conduct an investigation and complete the confirmation steps of the release investigation and submit a detailed description of the procedures and results outlined in the investigation, in accordance with 30 TEX. ADMIN. CODE § 334.74; and
 - ii. Perform an operability test on the cathodic protection system for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.49 (relating to corrosion protection).

- b. Within 45 days after the effective date of this Agreed Order, Mr. Ghene shall submit written certification of compliance with Ordering Provision No. 2.a. as described below.

The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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."

- c. Mr. Ghene 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

with a copy to:

Mr. Michael Brashear, Waste Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Dr.
Tyler, Texas 75701-3756

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Ghene. Mr. Ghene 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.
4. If Mr. Ghene 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. Ghene's failure to comply is not a violation of this Agreed Order. Mr. Ghene shall have the burden of establishing to the Executive Director's satisfaction that

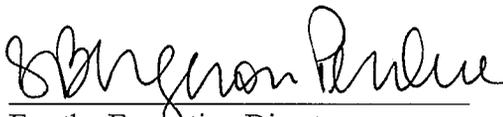
such an event has occurred. Mr. Ghene shall notify the Executive Director within seven days after Mr. Ghene becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. 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. Ghene shall be made in writing to the Executive Director. Extensions are not effective until Mr. Ghene receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Ghene 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Ghene, or three days after the date on which the Commission mails notice of the Order to Mr. Ghene, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/4/07

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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.

M Ghene
Signature

7-10-07
Date

M-A. Ghene
Name (Printed or typed)

owner
Title

Authorized representative of
Mohammad A. Ghene dba Super Food Mart 12