

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0291-PST-E TCEQ ID: RN101541308 CASE NO.: 32842
RESPONDENT NAME: ABDUL OLIWI DBA FINA GAS STATION

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

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

SITE WHERE VIOLATION(S) OCCURRED: 9251 White Settlement Road, White Settlement, Tarrant County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 28, 2008. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Mr. Patrick Jackson, Litigation Division, MC 175, (512) 239-6501
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
TCEQ Enforcement Coordinator: Ms. Shontay Wilcher, Waste Enforcement Section, MC 149, (512) 239-2136
TCEQ Regional Contact: Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903
Respondent: Mr. Abdul Oliwi, Owner, Fina Gas Station, 9251 White Settlement Road, White Settlement, Texas 76108
Respondent's Attorney: Mr. Scott Bauer, Attorney for Respondent, Jones & Cannon, P.C., 440 North Center, Arlington, Texas 76011

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 type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: November 7, 2006</p> <p>Date of NOE Relating to this Case: February 25, 2007</p> <p>Background Facts: The EDPRP was filed on July 9, 2007. On December 3, 2007 Mr. Oliwi signed an Agreed Order entering into an agreement with the Executive Director of the TCEQ to resolve this enforcement action.</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 file a written notification with the agency at least 30 days prior to initiating a major UST construction activity [30 TEX. ADMIN. CODE § 334.6(b)(2)]. Failed to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)]. Failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)]. 	<p>Total Assessed: \$8,400</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$350/\$8,050</p> <p>The Respondent has paid \$350 of the administrative penalty. The remaining amount of \$8,050 of the administrative penalty shall be payable in 35 monthly payments of \$230 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>Corrective Measures:</p> <p>The Executive Director recognizes that Mr. Oliwi has implemented the following corrective measures:</p> <ol style="list-style-type: none"> Successfully conducted testing of the line leak detectors for performance and operational reliability on January 26, 2007; and Cleared the blockage in the piping and successfully conducted testing of the stage II Vapour Recovery System on January 26, 2007. <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Submit an amended registration to reflect the current operational status of the USTs; and Post operating instructions on the front of each gasoline dispensing pump equipped with a Stage II Vapor Recovery System. Within 45 days, submit written certification demonstrating compliance with Ordering Provision No. 1.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5. Failed to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>6. Failed to verify proper operation of the Stage II equipment upon major system replacement or modification and at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(1) and (2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 15, 2005

TCEQ

DATES	Assigned	26-Feb-2007	PCW	4-Jun-2007	Screening	2-Mar-2007	EPA Due	
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RESPONDENT/FACILITY INFORMATION	
Respondent	Abdul Olwi, dba Fina Gas Station
Reg. Ent. Ref. No.	RN101541308
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	32842	No. of Violations	5
Docket No.	2007-0291-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Shontay Wilcher
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	\$8,000
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ADJUSTMENTS (#1) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.			
Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$400

Notes	Enhancement for one NOV with same or similar violations
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Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes	The respondent does not meet the culpability criteria.
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Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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Before NOV		NOV to EDPRP/Settlement Offer	
Extraordinary			
Ordinary			
N/A	<input checked="" type="checkbox"/>	(mark with x)	

Notes	The respondent does not meet the good faith criteria.
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	0% Enhancement	Subtotal 6	\$0
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Total EB Amounts	\$249	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$3,300	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,400
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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	
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Final Penalty Amount	\$8,400
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,400
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DEFERRAL	0% 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	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$8,400
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Screening Date: 2-Mar-2007

Docket No.: 2007-0291-PST-E

PGW

Respondent: Abdul Oliwi dba Fina Gas Station

Policy Revision 2 (September 2002)

Case ID No.: 32842

PCW Revision February 15, 2005

Reg. Ent. Reference No.: RN101541308

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Shontay Wilcher

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)	1	5%
	Other written NOVs	0	0%
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 submitted)	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%

Please Enter Yes or No

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)

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 with same or similar violations

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

Screening Date: 2-Mar-2007

Docket No: 2007-0291-PST-E

PCW

Respondent: Abdul Oliwi dba Fina Gas Station

Policy Revision 2 (September 2002)

Case ID No: 32842

PCW Revision February 15, 2005

Reg. Ent. Reference No: RN101541308

Media/Statute: Petroleum Storage Tank

Enf. Coordinator: Shontay Wilcher

Violation Number: 91

Rule Cite(s)

30 Tex. Admin. Code § 334.6(b)(2)

Violation Description

Failed to file a written notification with the agency at least 30 days prior to initiating a major UST construction activity. Specifically a TCEQ investigator documented that the piping from the diesel and adjacent gasoline tank had been excavated without a construction notice.

Base Penalty \$10,000

>> Environmental Property and Human Health Matrix

Harm

Release: Major Moderate Minor

Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification: Major Moderate Minor

	X		
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Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended for the 30-day period prior to the November 7, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent: Abdul Oliwi dba Fina Gas Station
 Case ID No: 32842
 Reg. Ent. Reference No: RN101541308
 Media: Petroleum Storage Tank
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
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Item Description (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	\$0	\$0
Record Keeping System			0.0	\$0	\$0	\$0
Training/Sampling			0.0	\$0	\$0	\$0
Remediation/Disposal			0.0	\$0	\$0	\$0
Permit Costs			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$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]			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	8-Oct-2006	7-Nov-2006	1.0	\$5	\$6
Other (as needed)			0.0	\$0	\$0	\$0
Notes for AVOIDED costs						
One-time costs associated with providing the Executive Director with notification of a planned major UST construction activity. The Date Required is 30 days prior to the investigation and the Final Date is the date of investigation.						

Approx. Cost of Compliance

\$100

TOTAL

\$6

Screening Date: 2-Mar-2007

Docket No: 2007-0291-PST-E

PCW

Respondent: Abdul Oliwi dba Fina Gas Station

Policy Revision 2 (September 2002)

Case ID No: 32842

PCW Revision February 15, 2005

Reg. Ent. Reference No: RN101541308

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Shontay Wilcher

Violation Number: 2

Rule Cite(s)

30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first becomes aware of the change or addition. Specifically, registration information had not been updated to indicate the change of tank product from gasoline to diesel.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent: 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 1

Number of violation days: 116

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty: \$1,000

One single event is recommended based on documentation of the violation during the November 7, 2006 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$5

Violation Final Penalty Total: \$1,050

This violation Final Assessed Penalty (adjusted for limits): \$1,050

Economic Benefit Worksheet

Respondent: Abdul Oliwi dba Fina Gas Station

Case ID: No. 32842

Reg. Ent. Reference No: RN101541308

Media: 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	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	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)	\$100	7-Nov-2006	1-Nov-2007	1.0	\$5	\$5	\$5

Notes for DELAYED costs

Estimated cost to submit an amended UST registration form to the TCEQ. The Date Required is the investigation date and the 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

\$5

Screening Date: 2-Mar-2007

Docket No: 2007-0291-PST-E

PCW

Respondent: Abdul Oliwi dba Fina Gas Station

Policy Revision 2 (September 2002)

Case ID No: 32842

PCW Revision February 15, 2005

Reg. Ent. Reference No: RN101541308

Media (Statute): Petroleum Storage Tank

Enf. Coordinator: Shontay Wilcher

Violation Number: 13

Rule Cite(s): 30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a)

Violation Description: Failed to test the line leak detectors at least once per year for performance and operational reliability.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent: 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent: 0%

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

\$2,500

Violation Events

Number of Violation Events: 1 Number of violation days: 365

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation-Base Penalty: \$2,500

One annual event is recommended for the 12-month period preceding the November 7, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$109

Violation Final Penalty Total: \$2,625

This violation Final Assessed Penalty (adjusted for limits): \$2,625

Economic Benefit Worksheet

Respondent: Abdul Oliwi dba Fina Gas Station
 Case ID: No. 32842
 Reg. Ent. Reference No. RN101541308
 Media: 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
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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	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$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)				0.0	\$0	\$0	\$0
ONE-TIME avoided costs (3)	\$1,000	7-Nov-2005	26-Jan-2007	2.1	\$107	\$2	\$109
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs							
Avoided cost for annual testing. The Date Required is one year prior to the investigation and the Final Date is the date of compliance.							

Approx. Cost of Compliance \$1,000 TOTAL \$109

Screening Date: 2-Mar-2007

Docket No.: 2007-0291-PST-E

PCW

Respondent: Abdul Oliwi dba Fina Gas Station

Policy Revision 2 (September 2002)

Case ID No: 32842

PCW Revision February 15, 2005

Reg. Ent. Reference No: RN101541308

Media Statute: Petroleum Storage Tank

Enf. Coordinator: Shontay Wilcher

Violation Number: 4

Rule Cite(s)

30 Tex. Admin. Code § 115.242(3); and (9) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the Stage II vapor recovery system in proper operating condition as specified by the manufacturer and/or any applicable CARB Executive Order and free of defects that would impair the effectiveness of the system. Specifically, the pressure decay test indicated a blockage in the piping. Also, failed to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II vapor recovery system.

Base Penalty \$10,000

>> Environmental Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

80 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the November 7, 2006 investigation date to the January 26, 2007 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent: Abdul Oliwi dba Fina Gas Station

Case ID No: 32842

Reg. Ent. Reference No: RN101541308

Media: Petroleum Storage Tank

Violation No: 4

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$					

Delayed Costs

Item	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$1,000	7-Nov-2006	26-Jan-2007	0.2	\$1	\$15	\$15
Land				0.0	\$0	\$0	\$0
Record Keeping System				0.0	\$0	\$0	\$0
Training/Sampling				0.0	\$0	\$0	\$0
Remediation/Disposal				0.0	\$0	\$0	\$0
Permit Costs				0.0	\$0	\$0	\$0
Other (as needed)	\$100	7-Nov-2006	7-Nov-2007	1.0	\$5	\$5	\$5

Notes for DELAYED costs

Estimated cost to repair the piping. The Date Required in the investigation date and the Final Date is the date of compliance. Estimated cost to post operating instructions. The Date Required in the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$1,100

TOTAL

\$20

Screening Date: 2-Mar-2007

Docket No.: 2007-0291-PST-E

PCW

Respondent: Abdul Oliwi dba Fina Gas Station

Policy Revision 2 (September 2002)

Case ID No: 32842

PCW Revision February 15, 2005

Reg. Ent. Reference No: RN101541308

Media/Statute: Petroleum Storage Tank

Enf. Coordinator: Shontay Wilcher

Violation Number: 5

Rule Cite(s): 30 Tex. Admin. Code § 115.245(1) and (2) and Tex. Health & Safety Code § 382.085(b)

Violation Description: Failed to verify proper operation of the Stage II equipment upon major system replacement or modification and at least once every 12 months.

Base Penalty: \$10,000

> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent: 25%

> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent: 0%

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

\$2,500

Violation Events

Number of Violation Events: 1 Number of violation days: 365

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty: \$2,500

One annual event is recommended for the 12-month period preceding the November 7, 2006 investigation.

Economic Benefit (EB) for this violation

Statutory Limit(s)

Estimated EB Amount: \$109

Violation Final Penalty Total: \$2,625

This violation Final Assessed Penalty (adjusted for limits): \$2,625

Economic Benefit Worksheet

Respondent: Abdul Oilwi dba Fina Gas Station
 Case ID No: 32842
 Reg. Ent. Reference No: RN101541308
 Media: Petroleum Storage Tank
 Violation No: 5

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
Item Description	No commas or \$					

Delayed Costs

Item Cost	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
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	\$0	\$0
Record Keeping System			0.0	\$0	\$0	\$0
Training/Sampling			0.0	\$0	\$0	\$0
Remediation/Disposal			0.0	\$0	\$0	\$0
Permit Costs			0.0	\$0	\$0	\$0
Other (as needed)			0.0	\$0	\$0	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)

Item Cost	Date Required	Final Date	Yrs	Interest Saved	One-time Costs	EB Amount
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)	\$1,000	7-Nov-2005	26-Jan-2007	2.1	\$107	\$109
Other (as needed)			0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Avoided cost for Stage II testing. The Date Required is one year prior to the investigation date and the Final Date is the compliance date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$109

Compliance History

Customer/Respondent/Owner-Operator:	CN602492076 OLIWI, ABDUL	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN101541308 FINA GAS STATION	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	44546
Location:	9251 WHITE SETTLEMENT RD, WHITE SETTLEMENT, TX, 76108	Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	March 19, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	March 19, 2002 to March 19, 2007		

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

Name: Jason Godeaux Phone: 512-239-2541

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 judgments, 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. (CEEDS Inv. Track. No.)

1	11/22/2005	(434711)
2	02/20/2007	(531652)
- E. Written notices of violations (NOV). (CEEDS Inv. Track. No.)

Date:	10/26/2005	(434711)
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)	
Description:	Failure to conduct the annual line leak detector test for all line leak detectors.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.245(2)[G]	
Description:	Failure to conduct the Annual Stage II Vapor Recovery testing that was due by March 31, 2004 and March 31, 2005, and the Triennial Stage II Vapor Recovery testing that was due by March 20, 2005.	
- 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
AGAINST ABDUL OLIWI DBA
FINA GAS STATION;
RN101541308

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0291-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 Abdul Oliwi dba Fina Gas Station ("Mr. Oliwi") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Oliwi represented by Scott Bauer of the law firm James & Cannon, P.C., appear before the Commission and together stipulate that:

1. Mr. Oliwi owns and operates a convenience store with retail sales of gasoline located at 9251 White Settlement Road, White Settlement, Tarrant County, Texas (the "Station").
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, TEX. HEALTH & SAFETY CODE ch. 382, and the TCEQ rules.
3. The Commission and Mr. Oliwi agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Oliwi is subject to the Commission's jurisdiction.
4. Mr. Oliwi received notice of the violations alleged in Section II ("Allegations") on or about February 25, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Oliwi of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of eight thousand four hundred dollars (\$8,400.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Oliwi has paid three hundred fifty dollars (\$350.00) of the administrative penalty. The remaining amount of eight thousand fifty dollars (\$8,050.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred thirty dollars (\$230.00) 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. Oliwi 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. Oliwi to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Oliwi 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. Oliwi have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Oliwi has implemented the following corrective measures at the Station in response to this enforcement action:
 - a. Successfully conducted testing of the line leak detectors for performance and operational reliability on January 26, 2007; and
 - b. Cleared the blockage in the piping and successfully conducted testing of the Stage II vapor recovery system on January 26, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Oliwi has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

Mr. Oliwi is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.6(b)(2) by failing to file a written notification with the agency at least 30 days prior to initiating a major UST construction activity, as documented during an investigation conducted on November 7, 2006. Specifically, a TCEQ investigator documented that the piping from the diesel and adjacent gasoline tank had been excavated without a construction notice
2. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first becomes aware of the change or addition, as documented during an investigation conducted on November 7, 2006. Specifically, registration information had not been updated to indicate the change of tank product from gasoline to diesel.
3. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) by failing to test the line leak detectors at least once per year for performance and operational reliability, as documented during an investigation conducted on November 7, 2006.
4. 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system, as documented during an investigation conducted on November 7, 2006. Specifically, the pressure decay test indicated a blockage in the piping.
5. 30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II vapor recovery system, as documented during an investigation conducted on November 7, 2006.
6. 30 TEX. ADMIN. CODE § 115.245(1) and (2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to verify proper operation of the Stage II equipment upon major system replacement or modification and at least once every 12 months, as documented during an investigation conducted on November 7, 2006. Specifically, Stage II annual system compliance testing had not been successfully completed.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Oliwi pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Oliwi'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: Abdul Oliwi dba Fina Gas Station, Docket No. 2007-0291-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. It is further ordered that Mr. Oliwi shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Mr. Oliwi shall:
 - i. Submit an amended registration to reflect the current operational status of the USTs, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Remediation Support Division, MC-138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
 - ii. Post operating instructions on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.242.
 - b. Within 45 days after the effective date of this Agreed Order, Mr. Oliwi shall submit written certification as described below, and include detailed supporting

documentation including, photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions 2.a.i. through 2.a.ii. 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:

Sam Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Oliwi. Mr. Oliwi is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If Mr. Oliwi 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. Oliwi's failure to comply is not a violation of this Agreed Order. Mr. Oliwi shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Oliwi shall notify the Executive Director within seven days after Mr. Oliwi 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. Oliwi shall be made in writing to the Executive Director. Extensions are not effective until Mr. Oliwi 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. Oliwi 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. Oliwi, or three days after the date on which the Commission mails notice of the Order to Mr. Oliwi, 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

Benjamin Penline
For the Executive Director

2/3/08
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.

Abdul Oliwi
Signature

12-3-07
Date

Representative member
Name (Printed or typed)
Authorized representative of
Abdul Oliwi dba Fina Gas Station

Owner
Title