

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0723-PST-E TCEQ ID: RN103001798 CASE NO.: 33468
RESPONDENT NAME: MOHAMMAD ARIF DBA SUPER STOP 4

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

SITE WHERE VIOLATION(S) OCCURRED: 2590 North Main Street, Vidor, Orange 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 21, 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. Derek Eades, Beaumont Regional Office, MC R-10, (409) 899-8705

Respondent: Mr. Mohammad Arif, Owner, Super Stop 4, 290 North Main Street, Vidor, Texas 77662

Respondent's Attorney: Not represented by counsel.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <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: March 23, 2007</p> <p>Date of NOE Relating to this Case: April 29, 2007</p> <p>Background Facts: The EDPRP was filed and mailed on September 25, 2007. The Respondent did not file an answer.</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 maintain the Stage II Vapor Recovery System in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Orders(s), 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)]. Failure to verify proper operation of the Stage II equipment at least once every 12 months and Stage II vapor space manifolding and dynamic pressure performance at least once every 36 months [30 TEX. ADMIN. CODE §115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 	<p>Total Assessed: \$4,690</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$4,690</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty 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>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately upon the effective date of this Order. The Respondent may apply for a new delivery certificate only after the Respondent complies with the terms of this Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 10 days, send its UST delivery certificate to TCEQ. Within 30 days: <ol style="list-style-type: none"> Conduct the annual and triennial testing of the Stage II equipment; and Begin maintaining the Stage II Vapor Recovery System in proper operative condition, including but not limited to installation/repair of vapor tight fitting and the nozzle. Within 45 days, submit written certification demonstrating compliance with Ordering Provision No. 2.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	30-Apr-2007	Screening	9-May-2007	EPA Due	
	PCW	13-Aug-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Mohammad Arif dba Super Stop 4		
Reg. Ent. Ref. No.	RN103001798		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33468	No. of Violations	2
Docket No.	2007-0723-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	\$3,500
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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	34% Enhancement	Subtotals 2, 3, & 7	\$1,190
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Notes: Enhancement for one Notice of Violation with same or similar violations, two Notices of Violation without same or similar violations, and one Default Order.

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

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	X	(mark with x)

Notes: The respondent does not meet the good faith criteria.

	0% Enhancement	Subtotal 6	\$0
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Total EB Amounts	\$1,225	*Gapped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,500	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,690
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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 \$4,690

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,690
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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.

PAYABLE PENALTY	\$4,690
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Screening Date 9-May-2007

Docket No. 2007-0723-PST-E

PCW

Respondent Mohammad Arif dba Super Stop 4

Policy Revision 2 (September 2002)

Case ID No. 33468

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN103001798

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	2	4%
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	1	25%
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 judgments 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) 34%

>> 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 Notice of Violation with same or similar violations, two Notices of Violation without same or similar violations, and one Default Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 34%

Screening Date 9-May-2007

Docket No. 2007-0723-PST-E

PCW

Respondent Mohammad Arif dba Super Stop 4

Policy Revision 2 (September 2002)

Case ID No. 33468

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN103001798

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.242(3) 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 California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the pressure decay test indicated that the drop tubes were not vapor tight. Also, Air to Liquid ratios indicated that the regular unleaded nozzle on Dispenser No. 4 was defective.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		X		

>> 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 47 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 based on documentation of the violation during the March 23, 2007 investigation date to the May 9, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$1,340

This violation Final Assessed Penalty (adjusted for limits) \$1,340

Economic Benefit Worksheet

Respondent: Mohammad Arif dba Super Stop 4
 Case ID No. 33468
 Reg. Ent. Reference No. RN103001798
 Media: 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	\$500	23-Mar-2007	23-Jan-2008	0.8	\$1	\$28	\$29
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

Estimated cost to repair or replace vapor tight fitting and the nozzle. 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)

Item Description	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

\$500

TOTAL

\$29

Screening Date 9-May-2007

Docket No: 2007-0723-PST-E

PCW

Respondent Mohammad Arif dba Super Stop 4

Policy Revision 2 (September 2002)

Case ID No: 33468

PCW Revision April 26, 2007

Reg. Ent. Reference No: RN103001798

Media (Statute): Petroleum Storage Tank

Enf. Coordinator: Shontay Wilcher

Violation Number: 2

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

Violation Description: Failed to verify proper operation of the Stage II equipment at least once every 12 months and Stage II vapor space manifolding and dynamic pressure performance at least once every 36 months. Specifically, the Stage II annual and triennial compliance testing had not been conducted.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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: 47

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty: \$2,500

One single event is recommended for the three-year period preceding the March 23, 2007 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$1,196

Violation Final Penalty Total: \$3,350

This violation Final Assessed Penalty (adjusted for limits): \$3,350

Economic Benefit Worksheet

Respondent: Mohammad Arif dba Super Stop 4

Case ID: No. 33468

Reg. Ent. Reference No.: RN103001798

Media: Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	IEB Amount
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Delayed Costs

Item Description	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	IEB 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 Description	Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	IEB 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)	\$1,000	23-Mar-2004	23-Mar-2007	3.9	\$196	\$1,000	\$1,196

Notes for AVOIDED costs

Estimated cost to successfully conduct the required annual and triennial tests. The Date Required is the three years prior to the investigation. The Final Date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,196

Compliance History

Customer/Respondent/Owner-Operator:	CN600828800 ARIF, MOHAMMAD	Classification: AVERAGE	Rating: 5.81
Regulated Entity:	RN103001798 SUPER STOP 4	Classification: AVERAGE	Site Rating: 16.20
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	7646
Location:	2590 N MAIN ST, VIDOR, TX, 77662	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	May 08, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 08, 2002 to May 08, 2007		

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

Name: Shontay Wilcher Phone: (512) 239-2136

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 Effective Date: 04/29/2006 ADMINORDER 2005-0078-PST-E
 Classification: Moderate
 Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)[G]
 30 TAC Chapter 37, SubChapter I 37.815(b)[G]
 Description: A mechanism was received, but it did not indicate what facilities were covered.

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 | 10/20/2003 | (279204) |
| 2 | 12/09/2004 | (292011) |
| 3 | 03/30/2006 | (453512) |
| 4 | 08/30/2006 | (509412) |
| 5 | 11/06/2006 | (516448) |
| 6 | 04/24/2007 | (554898) |

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

Date: 10/20/2003 (279204)

Self Report? NO Classification: Moderate

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

Description: Failure to provide acceptable financial assurance.
 Date: 03/30/2006 (453512)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: Failure to maintain records on-site and make immediately available for review upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction at sites ordinarily manned during business hours.

Date: 11/06/2006 (516448)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)[G]

Description: Failure to operate Stage II system in accordance with the CARB Executive Order.

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 ARIF DBA SUPER
STOP 4;
RN103001798

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-0723-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the Respondent's underground storage tank delivery certificate, the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Mohammad Arif dba Super Stop 4 ("Mr. Arif").

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

FINDINGS OF FACT

1. Mr. Arif owns and operates a convenience store with retail sales of gasoline located at 2590 North Main Street, Vidor, Orange County, Texas (the "Station").
2. Mr. Arif's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Arif's USTs contain a regulated petroleum substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an inspection conducted on March 23, 2007, a TCEQ Beaumont Regional Office investigator documented that Mr. Arif:
 - a. 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 Executive Order(s), and free of defects that would impair the effectiveness of

the system. Specifically, the pressure decay test indicated that the drop tubes were not vapor tight. Also, Air to Liquid ratios indicated that the regular unleaded nozzle on Dispenser No. 4 was defective.

- b. failed to verify proper operation of the Stage II equipment at least once every 12 months and Stage II vapor space manifolding and dynamic pressure performance at least once every 36 months. Specifically, the Stage II annual and triennial compliance testing had not been conducted.
4. Mr. Arif received notice of the violations on or about April 29, 2007.
5. 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 Mohammad Arif dba Super Stop 4" (the "EDPRP") in the TCEQ Chief Clerk's office on September 25, 2007.
6. By letter dated September 25, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Arif with notice of the EDPRP. According to the return receipt "green card", Mr. Arif received notice of the EDPRP on September 27, 2007, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Arif received notice of the EDPRP, provided by the Executive Director. Mr. Arif failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Arif is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Arif 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 Executive Order(s), and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b).

3. As evidenced by Finding of Fact No. 3.b., Mr. Arif failed to verify proper operation of the Stage II equipment at least once every 12 months and Stage II vapor space manifolding and dynamic pressure performance at least once every 36 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Arif with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 7, Mr. Arif has failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Arif 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. Arif 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 four thousand six hundred ninety dollars (\$4,690.00) 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.
9. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Mr. Arif's UST delivery certificate if the Commission finds that good cause exists.
10. Good cause for revocation of Mr. Arif's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6, and 7 and Conclusions of Law Nos. 2, 3, 4, and 5.

ORDERING PROVISIONS

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

1. Mr. Arif is assessed an administrative penalty in the amount of four thousand six hundred ninety dollars (\$4,690.00) for violations of TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and rules of the TCEQ. The payment of this administrative penalty and Mr. Arif'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: Mohammad Arif dba Super Stop 4; Docket No. 2007-0723-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. Arif's UST delivery certificate is revoked immediately upon the effective date of this Order. Mr. Arif may submit an application for a new delivery certificate only after Mr. Arif has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Mr. Arif shall send his UST delivery certificate to:

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

4. Mr. Arif shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Arif shall:

- i. Conduct the annual and triennial testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245; and
 - ii. Begin maintaining the Stage II vapor recovery system in proper operating condition, including but not limited to installation/repair of vapor tight fitting and the nozzle, in accordance with 30 TEX. ADMIN. CODE § 115.242.
- b. Within 45 days after the effective date of this Order, Mr. Arif 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 Nos. 4.a.i. and 4.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:

Derek Eades, Waste Section Manager
Beaumont Regional Office, MC R-10
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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

6. The provisions of this Order shall apply to and be binding upon Mr. Arif. Mr. Arif is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
7. If Mr. Arif 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. Arif's failure to comply is not a violation of this Order. Mr. Arif shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Arif shall notify the Executive Director within seven days after Mr. Arif becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Arif shall be made in writing to the Executive Director. Extensions are not effective until Mr. Arif receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Arif if the Executive Director determines that Mr. Arif has not complied with one or more of the terms or conditions in this Order.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PATRICK N. JACKSON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad Arif dba Super Stop 4” (the “EDPRP”) with the Office of the Chief Clerk on September 25, 2007.

I sent the EDPRP to Mr. Arif at his last known address on September 25, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card”, Mr. Arif received notice of the EDPRP on September 27, 2007, as evidenced by the signature on the card.

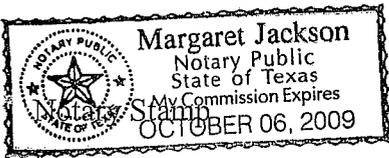
More than 20 days have elapsed since Mr. Arif received notice of the EDPRP. Mr. Arif failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference”.



Patrick N. Jackson
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Patrick N. Jackson, 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 29 day of November, A.D., 2007.





Notary Signature