

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2005-1479-PST-E TCEQ ID: RN102432838 CASE NO.: 26652
RESPONDENT NAME: ANUSHA INC. DBA CITGO FOOD STORE

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: 6000 Antoine Drive, Houston, Harris 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 location.

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 March 24, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Robert Mosley, Litigation Division, MC 175, (512) 239-0627
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873
 TCEQ Enforcement Coordinator: Ms. Audra Ruble, Air Enforcement Section, MC R-14, (361) 825-3126
 TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713)767-3623
 Respondent: Mr. Mehdi Kasam Dhukka, Registered Agent, Anusha, Inc., dba Citgo Food Store, 225 Flour Daniel Dr. #12104, Sugarland, Texas 77479
 Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: January 4, 2004 (Record Review)</p> <p>Date of NOE Relating to this Case: February 23, 2004</p> <p>Background Facts: The Executive Director filed and mailed the EDPRP, EDFARP, EDSARP, and EDTARP. The Respondent has not filed an answer. The Executive Director had repeated difficulties obtaining service of process.</p> <p>The Executive Director filed the EDTARP on October 10, 2007. The United States Postal service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that the Respondent received notice of the EDTARP.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST: Failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs [30 TEX. ADMIN CODE: § 37.815(a) and (b)].</p>	<p>Total Assessed: \$2,140</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Due to General Revenue: \$2,140</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do 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 the Order. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with the all of the requirements of the Order.</p> <p>Within 10 days, the Respondent shall submit it's UST delivery certificate.</p> <p>Corrective Action Taken:</p> <p>The Executive Director recognizes that the Respondent obtained acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs on March 18, 2004 in response to the enforcement action.</p>

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

ICEQ

DATES Assigned
 PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No. No. of Violations
 Docket No. Order Type
 Media Program(s) Enf. Coordinator
 Multi-Media EC's Team
 Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1:

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History: Subtotals 2, 3, & 7:
 Notes:

Culpability: Subtotal 4:
 Notes:

Good Faith Effort to Comply: Subtotal 5:
 Before NOV NOV to EDPRP/Settlement Offer
 Extraordinary
 Ordinary
 N/A (mark with a small x)
 Notes:

Economic Benefit: Subtotal 6:
 Total EB Amounts *Capped at the Total EB \$ Amount
 Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 Final Subtotal:

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment:
 Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)
 Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Adjustment:
 Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)
 Notes:

PAYABLE PENALTY

Screening Date 24-Aug-2005

Docket No. 2005-1479-PST-E

PCW

Respondent Anusha, Inc. dba.CITGO Food Store

Policy Revision 2 (September 2002)

Case ID No. 26652

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN102432838

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Audra L. Ruble

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	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were disclosed)	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%
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) 7%

>> 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 the same or similar violations and one NOV for dissimilar violations.

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

Screening Date 24-Aug-2005

Docket No. 2005-1479-PST-E

PCW

Respondent Anusha, Inc. dba CITGO Food Store

Policy Revision : (September 2002)

Case ID No. 26652

PCW Revision: May 19, 2005

Reg. Ent. Reference No. RN102432838

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Audra L. Ruble

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"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

		Major	Moderate	Minor	
	Falsification	<input type="text" value="X"/>	<input type="text"/>	<input type="text"/>	Percent <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 type="text" value="X"/>

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 Anusha, Inc. dba CITGO Food Store
 Case ID No. 26652
 Reg. Ent. Reference No. RN102432838
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest 5.0
 Years of Depreciation 15

Item Description	Item Cost (No commas or \$)	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

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Date	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]	\$1,300	03-Dec-2002	03-Dec-2003	1.0	\$65	\$1,300	\$1,365
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum UST's (\$650 per tank).
 Date required (12/03/2002) is one year prior to the request to submit proof of financial assurance on 12/03/2003.

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN601676497 Anusha, Inc.	Classification: AVERAGE	Rating: 2.25
Regulated Entity:	RN102432838 CITGO FOOD STORE	Classification: AVERAGE	Site Rating: 2.25
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	17924
Location:	6000 ANTOINE DR, HOUSTON, TX, 77091	Rating Date: September 01 05	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	May 27, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	September 1, 2000 to September 1, 2005		

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

Name: Audra Ruble Phone: (361) 825-3126

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- | | | |
|---|------------|----------|
| 1 | 02/23/2004 | (379132) |
| 2 | 07/08/2005 | (380770) |
| 3 | 08/05/2005 | (396294) |

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

Date: 02/23/2004 (379132)

Self Report? NO

Classification: Moderate

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

Description: Failure to provide acceptable Financial Assurance.

Date: 07/07/2005 (380770)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Failure to verify the proper operation of the Stage II equipment every 12 and every 36 months.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, including the absence of any component that is a part of the approved system.

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
ANUSHA, INC. DBA CITGO FOOD
STORE,
RN102432838

§
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§
§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2005-1479-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality; ("Commission" or "TCEQ") considered the Executive Director's Third Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the the revocation of the respondent's underground storage tank delivery certificate and the imposition of an administrative penalty. The respondent made the subject of this Order is Anusha, Inc. dba CITGO Food Store ("Anusha").

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

FINDINGS OF FACT

1. Anusha owns and operates a convenience store with retail sales of gasoline located at 6000 Antoine Drive, Houston, Harris County, Texas (the "Facility").
2. Anusha's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Anusha's USTs contain a regulated substance as defined in the rules of the Commission.
3. During a record review on January 4, 2004, a TCEQ Central Office investigator documented that Anusha failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs.
4. Anusha received notice of the violation on or about February 23, 2004.
5. The Executive Director recognizes that Anusha obtained acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs on March 18, 2004 in response to this enforcement action.

6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Anusha, Inc. dba CITGO Food Store" (the "EDPRP") in the TCEQ Chief Clerk's office on March 2, 2006.
7. By letter dated March 2, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Anusha with notice of the EDPRP. According to the return receipt "green card," Anusha received notice of the EDPRP on March 4, 2006, as evidenced by the signature on the card.
8. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Anusha, Inc. dba CITGO Food Store" (the "EDFARP") in the TCEQ Chief Clerk's office on September 13, 2006.
9. By letter dated September 13, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Anusha with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Anusha received notice of the EDFARP.
10. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Anusha, Inc. dba CITGO Food Store" (the "EDSARP") in the TCEQ Chief Clerk's office on May 10, 2007.
11. By letter dated May 10, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Anusha with notice of the EDSARP. According to the return receipt "green card," Anusha received notice of the EDSARP on May 11, 2007, as evidenced by the signature on the card.
12. The Executive Director filed the "Executive Director's Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Anusha, Inc. dba CITGO Food Store" (the "EDTARP") in the TCEQ Chief Clerk's office on October 10, 2007.
13. By letter dated October 10, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Anusha with notice of the EDTARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Anusha received notice of the EDTARP.
14. More than 20 days have elapsed since Anusha received notice of the EDPRP, the EDFARP, the EDSARP, and the EDTARP provided by the Executive Director. Anusha failed to file an

answer to either the EDPRP, the EDFARP, the EDSARP, or the EDTARP, 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, Anusha is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Anusha failed to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
3. As evidenced by Finding of Fact Nos. 6, 7, 8, 9, 10, 11, 12, and 13, the Executive Director has timely served Anusha with proper notice of the EDPRP, the EDFARP, the EDSARP, and the EDTARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a) and (c)(2).
4. As evidenced by Finding of Fact No. 14, Anusha has failed to file a timely answer to either the EDPRP, the EDFARP, the EDSARP, or the EDTARP 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 Anusha and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Anusha 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.
6. An administrative penalty in the amount of two thousand one hundred forty dollars (\$2,140.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. 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.
8. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Anusha's UST delivery certificate if the Commission finds that good cause exists.
9. Good cause for revocation of Anusha's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 6, 7, 8, 9, 10, 11, 12, 13, and 14 and Conclusions of Law Nos. 2, 3, and 4.

ORDERING PROVISIONS

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

1. Anusha is assessed an administrative penalty in the amount of two thousand one hundred forty dollars (\$2,140.00) for violations of TEX. WATER CODE chs. 7 and 26 and rules of the TCEQ. The payment of this administrative penalty and Anusha'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: Anusha, Inc. dba CITGO Food Store; Docket No. 2005-1479-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. Anusha's UST delivery certificate is revoked immediately upon the effective date of this Order. Anusha may submit an application for a new delivery certificate only after Anusha has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Anusha shall send its UST delivery certificate to:

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

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Anusha. Anusha is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Anusha shall be made in writing to the Executive Director. Extensions are not effective until Anusha receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Anusha if the Executive Director determines that Anusha has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF ROBERT R. MOSLEY

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Robert R. Mosley. 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 Anusha, Inc. dba CITGO Food Store" (the "EDPRP") with the Office of the Chief Clerk on March 2, 2006.

I sent the EDPRP to Anusha at its last known address on March 2, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Anusha received notice of the EDPRP on March 4, 2006, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Anusha, Inc. dba CITGO Food Store" (the "EDFARP") with the Office of the Chief Clerk on September 13, 2006.

I sent the EDFARP to Anusha at its last known address on September 13, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative

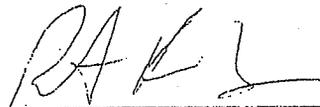
Penalty Against Anusha, Inc. dba CITGO Food Store" (the "EDSARP") with the Office of the Chief Clerk on May 10, 2007.

I sent the EDSARP to Anusha at its last known address on May 10, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Anusha received notice of the EDSARP on May 11, 2007, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's Third Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against Anusha, Inc. dba CITGO Food Store" (the "EDTARP") with the Office of the Chief Clerk on October 10, 2007.

I sent the EDTARP to Anusha at its last known address on October 10, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the respondent received notice of the EDTARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Anusha received notice of the EDPRP, EDFARP, EDSARP, and the EDTARP. Anusha failed to file an answer to the EDPRP, the EDFARP, the EDSARP, or the EDTARP, failed to request a hearing, and failed to schedule a settlement conference."



Robert R. Mosley
Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Robert R. Mosley, 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 30th day of January, 2008.

