

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0169-PST-E TCEQ ID: RN101866002 CASE NO.: 28311

**RESPONDENT NAME: TAJRANGEZA KHAIL DBA BENNY'S FOOD MART AND AIEDEH HUSAINAT
DBA BENNY'S FOOD MART**

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 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: 1304 Spurlock Road, Nederland, Jefferson County

TYPE OF OPERATION: former 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 February 9, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Rebecca M. Combs, Litigation Division, MC 175, (512) 239-6939
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Air Enforcement Section, MC 149, (512) 239-2134

TCEQ Regional Contact: Ms. Heather Ross, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondents: Ms. Tajrangeza Khail and Ms. Aiedeh Husainat, Benny's Food Mart, P.O. Box 5619, Port Arthur, Texas 77640

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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: N/A</p> <p>Dates of Investigations Relating to this Case: October 14, 2004 and December 19, 2005</p> <p>Dates of NOEs Relating to this Case: November 10, 2004 and February 9, 2006</p> <p>Background Facts: The EDPRP was filed on October 13, 2006 and mailed to each Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," the Respondents received notice of the EDPRP on October 17, 2006, as evidenced by the signatures on the cards. The Respondents have failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The convenience store is now registered to another individual and the product was removed from the tanks on January 15, 2006.</p> <p>PST:</p> <p>1. Failed to permanently remove from service UST components that are not in compliance with 30 TEX. ADMIN. CODE § 334.55 [30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(b) and (d)(2)].</p> <p>2. Failed to amend, update, or change PST registration information [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>	<p>Total Assessed: \$8,925</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$8,925</p> <p>This is a Default Order. The Respondents have not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p>Tajrangeza Khail Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Tajrangeza Khail Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Aiedeh Husainat Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Aiedeh Husainat Person Compliance History: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Action(s) Taken:</p> <p>The Executive Director recognizes that the Respondents no longer own or operate the Facility and all product was removed from the tanks on January 15, 2006.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

TCEQ	DATES Assigned 13-Feb-2006	PCW 10-Dec-2008	Screening 13-Feb-2006	EPA Due
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RESPONDENT/FACILITY INFORMATION	
Respondent	Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Mart
Reg. Ent. Ref. No.	RN101866002
Facility/Site Region	10 - Beaumont <input type="checkbox"/> Major/Minor Source <input type="checkbox"/> Minor Source

CASE INFORMATION			
Enf./Case ID No.	28311	No. of Violations	2
Docket No.	2006-0169-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Suzanne Walrath
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,500
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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	5% Enhancement	Subtotals 2, 3, & 7	\$425
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Notes The respondents have been issued one NOV with same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The respondents do not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes The facility is not yet in compliance.

Economic Benefit	0% Enhancement	Subtotal 6	\$0
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Total EB Amounts	\$923	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,650	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,925
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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 \$8,925

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,925
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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 No deferral as this case did not settle within 60 days.

PAYABLE PENALTY	\$8,925
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Screening Date	13-Feb-2006	Docket No.	2006-0169-PST-E	PCW
Respondent	Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Maramber 2002)			
Case ID No.	28311			PCW Revision May 19, 2005
Reg. Ent. Reference No.	RN101866002			
Media (Statute)	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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 The respondents have been issued one NOV with same or similar violations.

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

Screening Date	13-Feb-2006	Docket No.	2006-0169-PST-E	PCW
Respondent	Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Martember 2002)			
Case ID No.	28311	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101866002			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			
Violation Number	1			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.47(a)(2)			
Secondary Rule Cite(s)	30 Tex. Admin. Code § 334.54(b) and (d)(2)			
Violation Description	Failed to permanently remove from service UST components that are not in compliance with 30 Tex. Admin. Code § 334.55. Specifically, the facility has been abandoned and the tank contains 7 inches of product and 1 inch of water. Additionally, the tanks were not secured against tampering or vandalism.			
Base Penalty	\$10,000			

Environmental Property and Human Health Matrix				
	Harm			
Release	Major	Moderate	Minor	
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="25%"/>
Potential	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Matrix Notes	Failure to timely empty the system of any residue from stored regulated substance and cap, plug, lock all piping, pumps, manways and tank access points could result in the exposure of a significant amount of contaminants which would exceed levels that are protective to human health and the environment.			
	Adjustment <input type="text" value="-7,500"/>			
	Base Penalty Subtotal <input type="text" value="\$2,500"/>			

Violation Events				
Number of Violation Events	<input type="text" value="3"/>			
mark only one use a small x	daily	monthly	quarterly	semiannual
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	annual	single event		
	<input type="checkbox"/>	<input type="checkbox"/>		
	Violation Base Penalty <input type="text" value="\$7,500"/>			
Three quarterly events (one quarter per tank) are recommended as documented by the investigation on 12/19/05.				

Economic Benefit (EB) for this violation	Statutory Limits Test
Estimated EB Amount <input type="text" value="\$925"/>	Violation Final Penalty Total <input type="text" value="\$7,875"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$7,875"/>	

Economic Benefit Worksheet

Respondent: Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Mart
 Case ID No: 28311
 Reg. Ent. Reference No: RN101866002
 Media (Statute): Petroleum Storage Tank
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment	\$10,000	19-Dec-2005	31-Mar-2007	1.3	\$43	\$853	\$896
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)	\$500	19-Dec-2005	20-Feb-2007	1.2	\$29	n/a	\$29

Notes for DELAYED costs: This first cost represents the amount to upgrade the 3 UST's or permanently remove them from service in accordance with 30 Tex. Admin. Code §334.55; and the amount for other costs is to cap, plug and lock all piping, pumps, manways and tank access points, beginning on the investigation date, and ending on the projected 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 **\$10,500** **TOTAL \$925**

Screening Date	13-Feb-2006	Docket No.	2006-0169-PST-E	PCW
Respondent	Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Martember 2002)			
Case ID No.	28311	PCW Revision May 19, 2005		
Reg. Ent. Reference No.	RN101866002			
Media (Statute)	Petroleum Storage Tank			
Enf. Coordinator	Suzanne Walrath			
Violation Number	2			
Primary Rule Cite(s)	30 Tex. Admin. Code §.334.7(d)(3)			
Secondary Rule Cite(s)				
Violation Description	Failed to amend, update, or change PST registration information. Specifically, the tanks were not properly registered in the owners' names.			
Base Penalty				\$10,000

Environmental, Property and Human Health Matrix

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

Programmatic Matrix

Falsification	Major	Moderate	Minor	
	X			Percent: 10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events

mark only one use a small x

daily	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty \$1,000

One single event is recommended as documented by the investigation on 12/19/05

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount -\$2 **Violation Final Penalty Total** \$1,050

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

Economic Benefit Worksheet

Respondent: Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Mart
 Case ID No: 28311
 Reg. Ent. Reference No: RN101866002
 Media [Statute]: Petroleum Storage Tank
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$150	19-Dec-2006	20-Sep-2006	-0.2	-\$2	n/a	-\$2

Notes for DELAYED costs: This cost represents the amount to amend, update, or change PST registration information beginning on the date of the investigation, and ending on the projected 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 **\$150** **TOTAL** **-\$2**

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN602989410 HUSAINAT, AIEDEH	Classification: AVERAGE	Rating: 4.50
Regulated Entity:	RN101866002 BENNYS FOOD MART	Classification: AVERAGE	Site Rating: 4.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	12207
Location:	1304 SPURLOCK RD, NEDERLAND, TX, 77627	Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	November 26, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	February 28, 2001 to February 28, 2006		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Suzanne Walrath</u>	Phone:	<u>512-239-2134</u>

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 | 11/10/2004 | (337918) |
| 2 | 02/09/2006 | (450556) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- | | | |
|--------------|---|--------------------------|
| Date: | 11/10/2004 | (337918) |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter C 334.54(d)(2) | |
| Description: | Failure to ensure that any residue from stored regulated substances which remain in an out of service UST system shall not exceed 2.5 centimeters at the deepest point and shall not exceed 0.3 percent by weight of the system at full capacity. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter C 334.54(b) | |
| Description: | Failure to assure that all PST equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 334, SubChapter A 334.7(d)(3) | |
| Description: | Failure to amend, update, or change registration information. | |
- 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
TAJRANGEZA KHAIL DBA
BENNY'S FOOD MART AND
AIEDEH HUSAINAT DBA
BENNY'S FOOD MART;
RN101866002

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2006-0169-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, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Mart ("Ms. Khail and Ms. Husainat").

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

FINDINGS OF FACT

1. Ms. Khail and Ms. Husainat owned a facility that was formerly operated as a convenience store with retail sales of gasoline located at 1304 Spurlock Road, Nederland, Jefferson County, Texas (the "Facility").
2. Ms. Khail's and Ms. Husainat's three underground storage tanks ("USTs") were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Ms. Khail's and Ms. Husainat's USTs contained a regulated substance as defined in the rules of the Commission.
3. During an inspection on October 14, 2004, and a follow up inspection on December 19, 2005, a Beaumont Regional Office investigator documented that Ms. Khail and Ms. Husainat:

- a. Failed to permanently remove from service UST components that are not in compliance with 30 TEX. ADMIN. CODE § 334.55. Specifically, the Facility had been abandoned and the tanks contained 7 inches of product and 1 inch of water. Additionally, the tanks were not secured against tampering or vandalism; and
 - b. Failed to amend, update, or change PST registration information. Specifically, the tanks were not properly registered in the owners' names.
4. Ms. Khail and Ms. Husainat received notice of the violations on or about November 15, 2004 and February 14, 2006.
 5. The Executive Director recognizes that Ms. Khail and Ms. Husainat no longer own or operate the Facility, and all product was removed from the tanks as of January 15, 2006.
 6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Mart (the "EDPRP") in the TCEQ Chief Clerk's office on October 13, 2006.
 7. By letter dated October 13, 2006, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Khail and Ms. Husainat with notice of the EDPRP. According to the return receipt "green cards," Ms. Khail and Ms. Husainat received notice of the EDPRP on October 17, 2006, as evidenced by the signatures on the cards.
 8. More than 20 days have elapsed since Ms. Khail and Ms. Husainat received notice of the EDPRP, provided by the Executive Director. Ms. Khail and Ms. Husainat 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, Ms. Khail and Ms. Husainat are 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.a., Ms. Khail and Ms. Husainat failed to permanently remove from service UST components that are not in compliance with 30 TEX. ADMIN. CODE

- § 334.55. Specifically, the Facility had been abandoned and the tanks contained 7 inches of product and 1 inch of water. Additionally, the tanks were not secured against tampering and vandalism, in violation of 30 TEX. ADMIN. CODE §§ 334.47(a)(2), and 334.54(b) and (d)(2).
3. As evidenced by Finding of Fact No. 3.b., Ms. Khail and Ms. Husainat failed to amend, update, or change PST registration information in violation of 30 TEX. ADMIN. CODE § 334.47(d)(3).
 4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director has timely served Ms. Khail and Ms. Husainat 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.8, Ms. Khail and Ms. Husainat have 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 Ms. Khail and Ms. Husainat 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 Ms. Khail and Ms. Husainat 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 eight thousand nine hundred twenty-five dollars (\$8,925.00), assessed jointly and severally against Ms. Khail and Ms. Husainat, is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
 8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Ms. Khail and Ms. Husainat are jointly and severally assessed an administrative penalty in the amount of eight thousand nine hundred twenty five dollars (\$8,925.00) for violations of

TEX. WATER CODE ch. 26, and rules of the TCEQ. The payment of this administrative penalty and Ms. Khail's and Ms. Husainat'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: Tajrangeza Khail dba Benny's Food Mart and Aiedeh Husainat dba Benny's Food Mart; Docket No. 2006-0169-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. Ms. Khail and Ms. Husainat are jointly and severally liable for the violations documented in this Order, and are jointly and severally liable for timely and satisfactory compliance with all terms and conditions of this Order.
3. All relief not expressly granted in this Order is denied.
4. 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 Ms. Khail and Ms. Husainat if the Executive Director determines that Ms. Khail and Ms. Husainat have not complied with one or more of the terms or conditions in this Order.
5. 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.
6. 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 BECKY COMBS

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Becky Combs. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the 'Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Tajrangeza Khail and Aiedeh Husainat dba Benny's Food Mart' (the 'EDPRP') was filed with the Office of the Chief Clerk on October 13, 2006.

The EDPRP was sent to Ms. Khail and Ms. Husainat at their last known addresses on October 13, 2006 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt 'green card,' Ms. Khail and Ms. Husainat received notice of the EDPRP on October 17, 2006, as evidenced by the signatures on the cards.

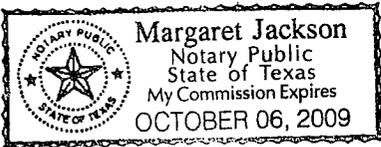
More than 20 days have elapsed since Ms. Khail and Ms. Husainat received notice of the EDPRP. Ms. Khail and Ms. Husainat failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."

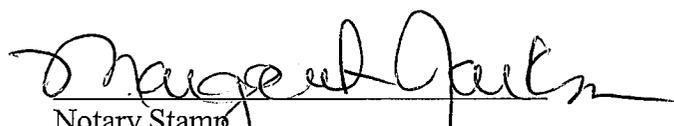


Becky Combs
Attorney
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 16 day of December, 2008.





Notary Stamp