

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-2009-PST-E TCEQ ID: RN104661384 CASE NO.: 26863
RESPONDENT NAME: WAFIA HANIF DBA TIGERLAND EXPRESS 1 F/K/A
WAFIA HANIF DBA SUPER STOP TEXACO

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
<p>SITE WHERE VIOLATIONS OCCURRED: 401 East Lennon Drive, Emory, Rains County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired May 4, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789 TCEQ Regional Contact: Mr. Michael Brashear, Tyler Regional Office, MC R-5, (903) 535-5176 Respondent: Mr. Wafia Hanif, Owner, Tigerland Express 1, P.O. Box 995, Emory, Texas 75440 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Dates of Investigation Relating to this Case: January 8, 2007 (records review) October 3, 2007 (follow-up investigation)</p> <p>Date of NOE Relating to this Case: October 30, 2007</p> <p>Background Facts: The EDPRP was filed March 7, 2008, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on March 18, 2008. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent corrected violation nos. 1 - 4. The Respondent's delivery certificate is current through September 2009.</p> <p>PST:</p> <p>1. Failed to have the corrosion protection equipment tested for operability and adequacy of protection at least once every three years to ensure adequate protection of the UST system. [30 TEX. ADMIN. CODE § 334.49 (c)(4), TEX. WATER CODE § 26.3475(d), and TCEQ Agreed Order, Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.i].</p> <p>2. Failed to inspect the cathodic protection system at least once every 60 days to ensure the rectifier and other system components were operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C), TEX. WATER CODE § 26.3475(d), and TCEQ Agreed Order, Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.i].</p> <p>3. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), TEX. WATER CODE § 26.3475 (c)(1), and TCEQ Agreed Order Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.iii].</p>	<p>Total Assessed: \$70,870</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: \$70,870</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 proposed Order.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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 Actions Taken:</p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:</p> <p>1. On October 22, 2008, began conducting effective manual or automatic inventory control procedures for all USTs (violation no. 4);</p> <p>2. On October 22, 2008, conducted bimonthly inspections and triennial testing of the corrosion protection system (violation nos. 1 and 2); and</p> <p>3. On October 3, 2007, installed and implemented a release detection method for all USTs at the Facility (violation no. 3).</p> <p>Ordering Provisions:</p> <p>The Respondent's delivery certificate is revoked immediately. The Respondent may submit an application for a new delivery certificate only after he has complied with all of the requirements in the order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 10 days, submit his delivery certificate to the TCEQ;</p> <p>2. Within 30 days, install and maintain anchored shear valves; and</p> <p>3. Within 45 days, submit written certification and include supporting documentation to demonstrate compliance with Ordering Provision No. 2.</p>

WAFIA HANIF DBA SUPER STOP TEXACO

DOCKET NO.: 2007-2009-PST-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum used as a motor fuel [30 TEX. ADMIN. CODE § 334.48(c) and TCEQ Agreed Order Docket No. 2005-1573- PST-E, Ordering Provision No. 2.a.ii].</p> <p>5. Failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit [30 TEX. ADMIN. CODE § 334.45(c)(3)(A) and TCEQ Agreed Order Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.iv].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

DATES	Assigned	10-Dec-2007	Screening	10-Dec-2007	EPA Due	
	PCW	14-Dec-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco
Reg. Ent. Ref. No.	RN104661384
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	26863	No. of Violations	4	
Docket No.	2007-2009-PST-E	Order Type	Findings	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Elvia Maske	
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	\$51,000
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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	37% Enhancement	Subtotals 2, 3, & 7	\$18,870
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Notes: Enhancement for one Notice of Violation with same or similar violations, one Notice of Violation without same or similar violations, one 1660 Agreed Order, and Poor Performer Classification.

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.

Total EB Amounts	\$1,232	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$2,700	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$69,870
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OTHER FACTORS AS JUSTICE MAY REQUIRE	1%	Adjustment	\$1,000
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to capture the avoided cost for compliance associated with the violation.

Final Penalty Amount	\$70,870
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$70,870
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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 is recommended for Findings Orders.

PAYABLE PENALTY	\$70,870
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Screening Date 10-Dec-2007

Docket No. 2007-2009-PST-E

PCW

Respondent Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dt

Policy Revision 2 (September 2002)

Case ID No. 26863

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN104661384

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

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)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one Notice of Violation with same or similar violations, one Notice of Violation without same or similar violations, one 1660 Agreed Order, and Poor Performer Classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 37%

Screening Date 10-Dec-2007	Docket No. 2007-2009-PST-E	PCW
Respondent Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 26863	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN104661384		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Elvia Maske		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	TCEQ Agreed Order Docket No. 2005-1573-PST-E, Ordering Provision 2.a.i., and 30 Tex. Admin. Code § 334.49(c)(4), 334.49(c)(2)(C), and Tex. Water Code § 26.3475(d)	
Violation Description	Failed to have the corrosion protection equipment tested for operability and adequacy of protection at least once every three years to ensure adequate protection of the UST system. Specifically, the Respondent did not conduct the required triennial test. Also, the Respondent failed to inspect the cathodic protection system at least once every 60 days to ensure the rectifier and other system components were operating properly.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Six quarterly events are recommended for the period from the June 15, 2006 order effective date to December 10, 2007 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1,074"/>	Violation Final Penalty Total <input type="text" value="\$20,844"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$20,844"/>	

Economic Benefit Worksheet

Respondent Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco

Case ID No. 26863

Reg. Ent. Reference No. RN104661384

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
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				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	15-Jun-2006	8-Jan-2007	1.5	\$74	\$1,000	\$1,074

Notes for AVOIDED costs

Estimated avoided cost for completing the triennial test and to inspect the cathodic protection system. Date Required is the effective date of the previous order and Final Date is the investigation date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,074

Screening Date 10-Dec-2007	Docket No. 2007-2009-PST-E	PCW
Respondent Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super !	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 26863	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN104661384		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Elvia Maske		
Violation Number <input type="text" value="2"/>		
Rule Cite(s)	TCEQ Agreed Order Docket No. 2005-1573-PST-E, Ordering Provision 2.a.iii., and 30 Tex. Admin. Code § 334.50(b)(1)(A), and Tex. Water Code § 26.3475(c)(1),	
Violation Description	Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the Respondent did not put the automatic tank gauge into test mode once each month.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text" value="x"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Six quarterly events are recommended for the period from the June 15, 2006 order effective date to the October 3, 2007 compliance date.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount <input type="text" value="\$137"/>	Violation Final Penalty Total <input type="text" value="\$20,844"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$20,844"/>	

Economic Benefit Worksheet

Respondent Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco
Case ID No. 26863
Reg. Ent. Reference No. RN104661384
Media: 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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	15-Jun-2006	3-Oct-2007	1.3	\$7	\$130	\$137
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

Estimated cost to provide a proper release detection method. Date Required is the effective date of the previous order and Final Date is the 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

\$1,500

TOTAL

\$137

Screening Date 10-Dec-2007 **Docket No.** 2007-2009-PST-E **PCW**

Respondent Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super :

Case ID No. 26863 *Policy Revision 2 (September 2002)*
PCW Revision November 6, 2007

Reg. Ent. Reference No. RN104661384

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number

Rule Cite(s) TCEQ Agreed Order Docket No. 2005-1573-PST-E, Ordering Provision 2.a.ii., and 30 Tex. Admin. Code § 334.48(c)

Violation Description Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum used as a motor fuel.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

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

>> Programmatic Matrix

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

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text" value="x"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Six quarterly events are recommended for the period from the June 15, 2006 order effective date to December 10, 2007 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$10"/>	Violation Final Penalty Total <input type="text" value="\$20,844"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$20,844"/>	

Economic Benefit Worksheet

Respondent: Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco

Case ID No.: 26863

Reg. Ent. Reference No.: RN104661384

Media: Petroleum Storage Tank

Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	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)	\$100	15-Jun-2006	15-Jun-2008	2.0	\$10	n/a	\$10

Notes for DELAYED costs

Estimated personnel costs for conducting inventory control for all USTs. Date Required is the effective date of the previous order and Final Date is the expected date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$10

Screening Date 10-Dec-2007	Docket No. 2007-2009-PST-E	PCW
Respondent Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 26863	<i>PCW Revision November 6, 2007</i>	
Reg. Ent. Reference No. RN104661384		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Elvia Maske		
Violation Number	4	
Rule Cite(s)	TCEQ Agreed Order Docket No. 2005-1573-PST-E, Ordering Provision 2.a.iv., and 30 Tex. Admin. Code § 334.45(c)(3)(A)	
Violation Description	Failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, it was observed that the shear valves were not properly anchored on the dispensers of the UST system.	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Potential	<input type="checkbox"/>	x	<input type="checkbox"/>	Percent <input type="text" value="10%"/>	

>> Programmatic Matrix

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

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	x
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

Violation Base Penalty

Six quarterly events are recommended for the period from the June 15, 2006 order effective date to December 10, 2007 screening date.

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 Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco
Case ID No. 26863
Reg. Ent. Reference No. RN104661384
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$100	15-Jun-2006	15-Aug-2008	2.2	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to properly install and maintain anchors. Date Required is the effective date of the previous order and Final Date is the expected date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$11

Compliance History

Customer/Respondent/Owner-Operator:	CN602859886 WAFIA HANIF	Classification: POOR	Rating: 53.75
Regulated Entity:	RN104661384 Tigerland Express 1	Classification: POOR	Site Rating: 106.50
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	29899
Location:	401 E LENNON DR, EMORY, TX, 75440	Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 05 - TYLER		
Date Compliance History Prepared:	December 14, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 14, 2002 to December 14, 2007		

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

Name: Elvia Maske Phone: (512) 239-0789

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? | Yes |
| 3. If Yes, who is the current owner? | <u>Wafia Hanif</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>Hanif, Shakoor</u> |
| 5. When did the change(s) in ownership occur? | <u>03/18/2003</u> |

Components (Multimedia) for the Site :

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

- | | |
|---|----------------------------|
| Effective Date: 06/15/2006 | ADMINORDER 2005-1573-PST-E |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)
30 TAC Chapter 334, SubChapter C 334.49(c)(4) | |
| Description: Failure to have the corrosion protection equipment tested by a NACE certified person once every 3 years to ensure adequate protection of the UST system. | |
| Classification: Minor | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)
30 TAC Chapter 334, SubChapter C 334.49(c)(2)(C) | |
| Description: Failure to check the impressed current system at least once every 60 days. | |
| Classification: Moderate | |
| Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A) | |
| Description: Failure to monitor the USTs for releases at least once per month. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 334, SubChapter C 334.48(c) | |
| Description: Failure to conduct inventory control in accordance with 30 TAC 334.48(c) for all retail gasoline facilities. | |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A) | |
| Description: Failure to properly anchor the shear valves in accordance with 30 TAC 334.45. | |

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 | 02/25/2003 | (275845) |
| 2 | 10/28/2004 | (290865) |
| 3 | 01/23/2007 | (536154) |
| 4 | 10/30/2007 | (597323) |

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

Date: 02/25/2003 (275845)

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:	01/12/2007 (536154)		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.3475(d) 30 TAC Chapter 334, SubChapter C 334.49(c)(4)		
Description:	Failure to have the corrosion protection equipment tested by a NACE certified person once every 3 years to ensure adequate protection of the UST system.		
Self Report?	NO	Classification:	Minor
Citation:	2D TWC Chapter 26, SubChapter A 26.3475(d) 30 TAC Chapter 334, SubChapter C 334.49(c)(2)(C)		
Description:	Failure to check the impressed current system at least once every 60 days.		
Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.3475(c)(1) 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)		
Description:	Failure to monitor the USTs for releases at least once per month.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.48(c)		
Description:	Failure to conduct inventory control in accordance with 30 TAC 334.48(c) for all retail gasoline facilities.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)		
Description:	Failure to properly anchor the shear valves in accordance with 30 TAC 334.45.		
Self Report?	NO	Classification:	Major
Citation:	2A TWC Chapter 7, SubChapter A 7.101		
Rqmt Prov:	ORDER OPs 1-2.b.		
Description:	Failed to comply with Ordering Provisions of Commission Order Docket No. 2005-1573-PST-E.		

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
WAFIA HANIF DBA TIGERLAND
EXPRESS 1 F/K/A WAFIA HANIF
DBA SUPER STOP TEXACO,
RN104661384

§
§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2007-2009-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, corrective action of the respondent, and revocation of the respondent's delivery certificate. The respondent made the subject of this Order is Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco ("Mr. Hanif").

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

FINDINGS OF FACT

1. Mr. Hanif owns and operates a convenience store with retail sales of gasoline located at 401 East Lennon Drive, Emory, Rains County, Texas (the "Facility").
2. Mr. Hanif's six underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Hanif's USTs contain a regulated petroleum substance as defined in the rules of the Commission.
3. During a records review conducted January 8, 2007, and an investigation conducted October 3, 2007, TCEQ Tyler Regional and Central Office staff documented that Mr. Hanif:
 - a. Failed to have the corrosion protection equipment tested for operability and adequacy of protection at least once every three years to ensure adequate protection of the UST system. Specifically, Mr. Hanif did not conduct the triennial test;

- b. Failed to inspect the cathodic protection system at least once every 60 days to ensure the rectifier and other system components were operating properly;
 - c. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, Mr. Hanif did not put the automatic tank gauge into test mode once each month. Specifically, Mr. Hanif did not put the automatic tank gauge ("ATG") into test mode once each month;
 - d. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum used as a motor fuel; and
 - e. Failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an aboveground dispensing unit. Specifically, it was observed that the shear valves were not properly anchored on the dispensers of the UST system.
4. Mr. Hanif received notice of the violations on or about November 4, 2007.
 5. The Executive Director recognizes that Mr. Hanif has implemented the following corrective measures at the Facility:
 - a. On October 22, 2008, implemented effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - b. On October 22, 2008, conducted bimonthly inspections and triennial testing of the corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - c. On October 3, 2007, installed and implemented a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50.
 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 Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco" (the "EDPRP") in the TCEQ Chief Clerk's office on March 7, 2008.

7. By letter dated on March 7, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Hanif with notice of the EDPRP. According to the return receipt "green card," Mr. Hanif received notice of the EDPRP on March 18, 2008, as evidenced by the signature on the card.
8. More than 20 days have elapsed since Mr. Hanif received notice of the EDPRP, provided by the Executive Director. Mr. Hanif 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. Hanif is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.054 and ch. 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Hanif failed to have the corrosion protection equipment tested for operability and adequacy of protection at least once every three years to ensure adequate protection of the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4), TEX. WATER CODE § 26.3475(d), and TCEQ Agreed Order, Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.i.
3. As evidenced by Finding of Fact No. 3.b., Mr. Hanif failed to inspect the cathodic protection system at least once every 60 days to ensure the rectifier and other system components were operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C), TEX. WATER CODE § 26.3475(d), and TCEQ Agreed Order, Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.i.
4. As evidenced by Finding of Fact No. 3.c., Mr. Hanif failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), TEX. WATER CODE § 26.3475(c)(1) and TCEQ Agreed Order, Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.iii.
5. As evidenced by Finding of Fact No. 3.d, Mr. Hanif failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum used as a motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c) and TCEQ Agreed Order, Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.ii.
6. As evidenced by Finding of Fact No. 3.e., Mr. Hanif failed to properly install and maintain a secure anchor at the base of each UL-listed emergency shutoff valve in a piping system in which regulated substances are conveyed under pressure to an

aboveground dispensing unit, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A) and TCEQ Agreed Order, Docket No. 2005-1573-PST-E, Ordering Provision No. 2.a.iv.

7. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Mr. Hanif with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
8. As evidenced by Finding of Fact No. 8, Mr. Hanif 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. Hanif and assess the penalty recommended by the Executive Director.
9. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Hanif 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.
10. An administrative penalty in the amount of seventy thousand eight hundred seventy dollars (\$70,870.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
11. 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.
12. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has the authority to revoke Mr. Hanif's UST delivery certificate if the Commission finds that good cause exists.
13. Good cause for revocation of Mr. Hanif's UST delivery certificate exists as justified by Finding of Fact Nos. 2, 3, 6, 7, and 8, and Conclusions of Law Nos. 2 through 8.

ORDERING PROVISIONS

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

1. Mr. Hanif is assessed an administrative penalty in the amount of seventy thousand eight hundred seventy dollars (\$70,870.00) for violations of TEX. WATER CODE chs. 7 and 26

and rules of the TCEQ. The payment of this administrative penalty and Mr. Hanif'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: Wafia Hanif dba Tigerland Express 1 f/k/a Wafia Hanif dba Super Stop Texaco; Docket No. 2007-2009-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. Hanif's UST delivery certificate is revoked immediately upon the effective date of this Order. Mr. Hanif may submit an application for a new delivery certificate only after Mr. Hanif has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Mr. Hanif 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. Hanif shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Mr. Hanif shall install and securely anchor emergency shutoff valves at the base of each dispenser, in accordance with 30 TEX. ADMIN. CODE § 334.45; and
 - b. Within 45 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 4.a.

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:

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

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. Hanif. Mr. Hanif is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
7. If Mr. Hanif 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. Hanif's failure to comply is not a violation of this Order. Mr. Hanif shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Hanif shall notify the Executive Director within seven days after Mr. Hanif 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. Hanif shall be made in writing to the Executive Director. Extensions are not effective until Mr. Hanif 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. Hanif if the Executive Director determines that Mr. Hanif 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

