

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2008-1035-PST-E TCEQ ID: RN102959814 CASE NO.: 36111**RESPONDENT NAME: FARAH CHAUDHRY AKA NICK CHAUDHRY DBA NICKS FOOD MART 2**

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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 VIOLATION(S) OCCURRED: 3003 Durst Street in Nacogdoches, Nacogdoches County</p> <p>TYPE OF OPERATION: former convenience store with inactive USTs</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 June 1, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-0736 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019 TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5828 TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 899-8705 Respondent: Mr. Farah "Nick" Chaudhry, Owner, Nicks Food Mart 2, 4518 Appleby Sands Road, Nacogdoches, Texas 75965 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

RESPONDENT NAME: FARAH CHAUDHRY AKA NICK CHAUDHRY DBA NICKS FOOD MART 2
DOCKET NO.: 2008-1035-PST-E

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 type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 4, 2008</p> <p>Date of NOE Relating to this Case: June 11, 2008</p> <p>Background Facts: The EDPRP was filed December 2, 2008. The agreed order was signed on March 12, 2009.</p> <p>Current Compliance Status: Not yet compliance.</p> <p>PST:</p> <p>1. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p> <p>2. Failed to provide an amended registration for any change or additional information regarding the UST's within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>	<p>Total Assessed: \$6,300</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$315/\$5,985</p> <p>This is an Agreed Order. The Respondent has paid \$315 of the administrative penalty. The remaining amount of \$5,985 shall be payable in 35 monthly payments of \$171 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days:</p> <p>a. Permanently remove the UST system from service; and</p> <p>b. Submit a completed registration to indicate the correct ownership information and the current operational status of the UST system.</p> <p>2. Within 45 days, submit written certification demonstrating compliance.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

DATES	Assigned	17-Jun-2008	Screening	23-Jun-2008	EPA Due	
	PCW	4-Nov-2008				

RESPONDENT/FACILITY INFORMATION			
Respondent	Farah Chaudhry		
Reg. Ent. Ref. No.	RN102959814		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	36111	No. of Violations	2
Docket No.	2008-1035-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		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* **\$6,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5.0% Enhancement *Subtotals 2, 3, & 7* **\$300**

Notes: Enhancement for one prior NOV with same or similar violations.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$0**

Economic Benefit 0.0% Enhancement* *Subtotal 6* **\$0**

Total EB Amounts	\$5,261
Approx. Cost of Compliance	\$10,100

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$6,300**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$6,300**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$6,300**

DEFERRAL 0.0% Reduction *Adjustment* **\$0**

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

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$6,300**

Screening Date 23-Jun-2008

Docket No. 2008-1035-PST-E

PCW

Respondent Farah Chaudhry

Policy Revision 2 (September 2002)

Case ID No. 36111

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102959814

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

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 <i>(number of events)</i>	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 submitted)</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%
<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) 5%

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

Adjustment Percentage (Subtotal 3) 0%

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

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one prior NOV with same or similar violations.

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

Screening Date 23-Jun-2008	Docket No. 2008-1035-PST-E	PCW		
Respondent Farah Chaudhry	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36111	<small>PCW Revision June 12, 2008</small>			
Reg. Ent. Reference No. RN102959814				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Judy Kluge				
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 334.47(a)(2)			
Violation Description	Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.			
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	25%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	0%	
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment		\$7,500		
		\$2,500		
Violation Events				
Number of Violation Events		2	80	
		Number of violation days		
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty	
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
Two monthly events (one month per system) are recommended based on documentation of the violation during the April 4, 2008 investigation.			\$5,000	
Good Faith Efforts to Comply		0.0% Reduction	\$0	
		<small>Before NOV NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal		\$5,000		
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		\$5,255	Violation Final Penalty Total	
		\$5,250		
		This violation Final Assessed Penalty (adjusted for limits)		
		\$5,250		

Economic Benefit Worksheet

Respondent Farah Chaudhry
Case ID No. 36111
Reg. Ent. Reference No. RN102959814
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	22-Dec-1998	23-Jun-2009	10.51	\$5,255	n/a	\$5,255

Notes for DELAYED costs

Estimated cost to permanently remove the UST system from service. The date required is the date when the Respondent was required to upgrade the UST system and the final date is based on the expected compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$5,255

<p>Screening Date 23-Jun-2008</p> <p>Respondent Farah Chaudhry</p> <p>Case ID No. 36111</p> <p>Reg. Ent. Reference No. RN102959814</p> <p>Media [Statute] Petroleum Storage Tank</p> <p>Enf. Coordinator Judy Kluge</p> <p>Violation Number <input type="text" value="2"/></p> <p>Rule Cite(s) <input type="text" value="30 Tex. Admin. Code § 334.7(d)(3)"/></p> <p>Violation Description</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>Failed to provide an amended registration for any change or additional information regarding the USTs within 30 days from the date of the occurrence of the change or addition. Specifically, registration was not updated to reflect the correct ownership information and current operational status of the UST system.</p> </div>	<p>Docket No. 2008-1035-PST-E</p> <p style="text-align: right;">PCW</p> <p style="text-align: right; font-size: small;">Policy Revision 2 (September 2002) PCW Revision June 12, 2008</p>																			
Base Penalty <input type="text" value="\$10,000"/>																				
>> Environmental, Property and Human Health Matrix																				
<p>OR</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: right;">Actual</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: right;">Potential</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table>		Harm					Major	Moderate	Minor		Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Harm																			
	Major	Moderate	Minor																	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>																
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>																	
>> Programmatic Matrix																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: right;">Falsification</td> <td><input type="text"/></td> <td><input type="text"/></td> <td><input type="text"/></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td></td> <td style="text-align: center;">x</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> </table> <p>Matrix Notes</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>100% of the rule requirement was not met.</p> </div>		Major	Moderate	Minor		Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>		x	<input type="text"/>	<input type="text"/>						
	Major	Moderate	Minor																	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>																
	x	<input type="text"/>	<input type="text"/>																	
Adjustment <input type="text" value="\$9,000"/>																				
Subtotal <input type="text" value="\$1,000"/>																				
Violation Events																				
<p>Number of Violation Events <input type="text" value="1"/> Number of violation days <input type="text" value="80"/></p> <p><i>mark only one with an x</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;">x</td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	x	<p>Violation Base Penalty <input type="text" value="\$1,000"/></p>							
daily	<input type="text"/>																			
monthly	<input type="text"/>																			
quarterly	<input type="text"/>																			
semiannual	<input type="text"/>																			
annual	<input type="text"/>																			
single event	x																			
<p>One single event is recommended based on documentation of the violation during the April 4, 2008 investigation.</p>																				
Good Faith Efforts to Comply																				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td style="text-align: center;">0.0% Reduction</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDRP/Settlement Offer</td> </tr> <tr> <td style="text-align: right;">Extraordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: right;">Ordinary</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td style="text-align: right;">N/A</td> <td style="text-align: center;">x</td> <td style="text-align: center;">(mark with x)</td> </tr> </table> <p>Notes</p> <div style="border: 1px solid black; padding: 5px; margin-top: 5px;"> <p>The Respondent does not meet the good faith criteria for this violation.</p> </div>		0.0% Reduction			Before NOV	NOV to EDRP/Settlement Offer	Extraordinary	<input type="text"/>	<input type="text"/>	Ordinary	<input type="text"/>	<input type="text"/>	N/A	x	(mark with x)	<p>Violation Subtotal <input type="text" value="\$1,000"/></p>				
	0.0% Reduction																			
	Before NOV	NOV to EDRP/Settlement Offer																		
Extraordinary	<input type="text"/>	<input type="text"/>																		
Ordinary	<input type="text"/>	<input type="text"/>																		
N/A	x	(mark with x)																		
Economic Benefit (EB) for this violation																				
<p>Estimated EB Amount <input type="text" value="\$6"/></p>	<p>Statutory Limit Test</p> <p>Violation Final Penalty Total <input type="text" value="\$1,050"/></p> <p>This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$1,050"/></p>																			

Economic Benefit Worksheet

Respondent Farah Chaudhry
Case ID No. 36111
Reg. Ent. Reference No. RN102959814
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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	4-Apr-2008	23-Jun-2009	1.22	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to submit an amended UST registration form to the TCEQ. The date required is the record review date and the final date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$6

Compliance History

Customer/Respondent/Owner-Operator:	CN602866295 CHAUDHRY, FARAH	Classification:	Rating: 0.00
Regulated Entity:	RN102959814 NICKS FOOD MART 2	Classification: Average	Site Rating: 3.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	14538
Location:	3003 DURST ST, NACOGDOCHES, TX, 75964		
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	June 18, 2008		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	June 18, 2003 to June 18, 2008		

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

Name: Judy Kluge Phone: 817-588-5825

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? Farah Chaudhry
4. If Yes, who was/were the prior owner(s)? Kingwood Petroleum, LLC
5. When did the change(s) in ownership occur? 05/07/2008

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 - 1 04/16/2007 (540631)
 - 2 06/11/2008 (657168)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 - Date: 04/16/2007 (540631)
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
 - Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
 - Description: Failure to provide amended registration and notification to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition.
- 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
FARAH CHAUDHRY AKA NICK
CHAUDHRY DBA NICKS FOOD
MART 2,
RN102959814

§
§
§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1035-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Farah Chaudhry aka Nick Chaudhry dba Nicks Food Mart 2 ("Mr. Chaudhry") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Chaudhry appear before the Commission and together stipulate that:

1. Mr. Chaudhry owns and operates a former convenience store with retail sales of gasoline located at 3003 Durst Street, Nacogdoches, Nacogdoches County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Chaudhry agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Chaudhry is subject to the Commission's jurisdiction.
4. Mr. Chaudhry received notice of the violations alleged in Section II ("Allegations") on or about June 16, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Chaudhry of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of six thousand three hundred dollars (\$6,300.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Chaudhry paid three hundred fifteen dollars (\$315.00) of the administrative penalty. The remaining amount of five thousand nine hundred eighty-five dollars (\$5,985.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred seventy-one dollars (\$171.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Mr. Chaudhry fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Mr. Chaudhry's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Chaudhry to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Chaudhry agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Chaudhry has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an investigation conducted on April 4, 2008, a TCEQ Beaumont Regional Office investigator documented that Mr. Chaudhry violated:

- a. 30 TEX. ADMIN. CODE § 334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
- b. 30 TEX. ADMIN. CODE § 334.7(d)(3), by failing to provide an amended registration for any change or additional information regarding the USTs within 30 days from the date of the occurrence of the change or addition.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Chaudhry pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Chaudhry's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Farah Chaudhry aka Nick Chaudhry dba Nicks Food Mart 2, Docket No. 2008-1035-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. Chaudhry shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55;
 - ii. Submit a completed registration to indicate the correct ownership information and the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Remediation Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. Within 45 days after the effective date of this Agreed 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 Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. If Mr. Chaudhry fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Chaudhry's failure to comply is not a violation of this Agreed

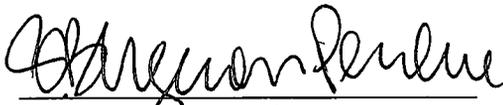
Order. Mr. Chaudhry shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Chaudhry shall notify the Executive Director within seven days after Mr. Chaudhry becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Chaudhry shall be made in writing to the Executive Director. Extensions are not effective until Mr. Chaudhry receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Chaudhry in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
7. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Chaudhry, or three days after the date on which the Commission mails notice of the Order to Mr. Chaudhry, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/27/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Chaudhry's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Chaudhry;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Mr. Chaudhry;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Chaudhry; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Farah Chaudhry
Signature

3-12-09
Date

Farah Chaudhry
Name (Printed or typed)
Authorized representative of
Farah Chaudhry aka Nick Chaudhry dba Nick's Food Mart 2

Owner and Operator
Title