

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-2035-PST-E TCEQ ID: RN101557205 CASE NO.: 35127**  
**RESPONDENT NAME: ALI SHAHJHAN DBA BROWNIES**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 501 Bedford Road in Bedford, Tarrant County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired June 15, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

- TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846  
 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. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903
- Respondent: Mr. Ali Shahjhan, Owner, Brownies, 501 Bedford Road, Bedford, Texas 76022
- Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 8, 2007</p> <p><b>Date of NOE Relating to this Case:</b> November 13, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed May 9, 2008. The Respondent failed to answer the EDPRP and a default order was scheduled for the April 22, 2009, agenda. On April 13, 2009, the Respondent signed the agreed order.</p> <p><b>Current Compliance Status:</b> The Respondent's delivery certificate expires in September 2009.</p> <p><b>PST:</b></p> <p>1. Failed renew a previously issued UST delivery certificate by timely and proper submission of a completed UST Registration and Self-Certification form to the agency at least 30 days before the expiration date of the delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>3. Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$5,821</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$186/\$5,635</p> <p>The Respondent paid \$186 of the administrative penalty. The remaining \$5,635 shall be paid in 35 payments of \$161 each.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Action(s) Taken:</b> The Executive Director recognizes that the Respondent submitted a UST Registration and Self-Certification form to the agency and obtained a current TCEQ delivery certificate.</p> <p><b>Ordering Provisions:</b> The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, conduct the required annual testing for the Stage II equipment; and</li> <li>2. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision No. 1.</li> </ol>

**Penalty Calculation Worksheet (PCW)**  
 Policy Revision 2 (September 2002) PCW Revision November 6, 2007

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned PCW</b>	21-Nov-2007	<b>Screening</b>	18-Dec-2007	<b>EPA Due</b>	
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<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Ali Shahjhan dba Brownies
<b>Reg. Ent. Ref. No.</b>	RN101557205
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>				
<b>Enf./Case ID No.</b>	35127	<b>No. of Violations</b>	3	
<b>Docket No.</b>	2007-2035-PST-E	<b>Order Type</b>	1660	
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Elvia Maske	
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6	
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$4,500
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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.

<b>Compliance History</b>	5% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$225
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<b>Notes</b>	Enhancement for one NOV with same or similar violations.
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<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply</b>	0% Reduction	<b>Subtotal 5</b>	\$0
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	<b>Before NOV</b>	<b>NOV to EDPRP/Settlement Offer</b>
<b>Extraordinary</b>		
<b>Ordinary</b>		
<b>N/A</b>	X	(mark with x)
<b>Notes</b>	The Respondent does not meet the good faith criteria.	

	0% Enhancement*	<b>Subtotal 6</b>	\$0
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<b>Total EB Amounts</b>	\$1,101	<i>*Capped at the Total EB \$ Amount</i>
<b>Approx. Cost of Compliance</b>	\$1,100	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,725
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	23%	<b>Adjustment</b>	\$1,096
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 3.
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<b>Final Penalty Amount</b>	\$5,821
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,821
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<b>DEFERRAL</b>	0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

<b>Notes</b>	Deferral not offered for non-expedited settlement.
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<b>PAYABLE PENALTY</b>	\$5,821
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**Screening Date** 18-Dec-2007

**Docket No.** 2007-2035-PST-E

**PCW**

**Respondent** Ali Shahjhan dba Brownies

Policy Revision 2 (September 2002)

**Case ID No.** 35127

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN101557205

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

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 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**

Enhancement for one NOV with same or similar violations.

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

<b>Screening Date</b>	18-Dec-2007	<b>Docket No.</b>	2007-2035-PST-E	<b>PCW</b>
<b>Respondent</b>	Ali Shahjhan dba Brownies	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	35127	<i>PCW Revision November 6, 2007</i>		
<b>Reg. Ent. Reference No.</b>	RN101557205			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Elvia Maske			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)			
<b>Violation Description</b>	Failed to renew a previously issued UST delivery certificate by timely and proper submission of a completed UST registration and self-certification form to the agency at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on September 30, 2006.			
<b>Base Penalty</b>				\$10,000
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual			
Potential				<b>Percent</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
<b>&gt;&gt; Programmatic Matrix</b>				
<b>OR</b>	<b>Falsification</b>			
	Major	Moderate	Minor	
		x		
<b>Matrix Notes</b>	100% of the rule requirement was not met.			
<b>Adjustment</b>				\$9,000
				\$1,000
<b>Violation Events</b>				
Number of Violation Events		1	Number of violation days	
		375		
<i>mark only one with an x</i>	daily			
	monthly			
	quarterly			
	semiannual			
	annual			
	single event	x		
<b>Violation Base Penalty</b>				\$1,000
One single event is recommended.				
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
Estimated EB Amount			\$6	<b>Violation Final Penalty Total</b>
				\$1,294
<b>This violation Final Assessed Penalty (adjusted for limits)</b>				\$1,294

## Economic Benefit Worksheet

**Respondent:** Ali Shahjhan dba Brownies  
**Case ID No.:** 35127  
**Reg. Ent. Reference No.:** RN101557205  
**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				0.0	\$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	31-Aug-2006	10-Oct-2007	1.1	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to renew a delivery certificate in a timely manner. The date required is 30 days before the expiration date and the 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

\$100

TOTAL

\$6

**Screening Date:** 18-Dec-2007      **Docket No.:** 2007-2035-PST-E      **PCW**  
**Respondent:** Ali Shahjhan dba Brownies      *Policy Revision 2 (September 2002)*  
**Case ID No.:** 35127      *PCW Revision November 6, 2007*  
**Reg. Ent. Reference No.:** RN101557205  
**Media [Statute]:** Petroleum Storage Tank  
**Enf. Coordinator:** Elvia Maske

**Violation Number:** 2  
**Rule Cite(s):** 30 Tex. Admin. Code § 334.8(c)(5)(A)(I) and Tex. Water Code § 26.3467(a)  
**Violation Description:** Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondent accepted 16 fuel deliveries without a delivery certificate.

**Base Penalty:** \$10,000

**>> Environmental, Property and Human Health Matrix**

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

**>> Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

**Adjustment:** \$9,000

\$1,000

**Violation Events**

Number of Violation Events: 1      16 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty:** \$1,000

One single event is recommended based on documentation of the violation during the October 8, 2007 investigation.

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

**Estimated EB Amount:** \$0      **Violation Final Penalty Total:** \$1,294

**This violation Final Assessed Penalty (adjusted for limits):** \$1,294

## Economic Benefit Worksheet

**Respondent:** Ali Shahjhan dba Brownies  
**Case ID No.:** 35127  
**Reg. Ent. Reference No.:** RN101557205  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	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

Economic benefit included in Violation No. 1.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

**Screening Date** 18-Dec-2007 **Docket No.** 2007-2035-PST-E **PCW**  
**Respondent** Ali Shahjhan dba Brownies *Policy Revision 2 (September 2002)*  
**Case ID No.** 35127 *PCW Revision November 6, 2007*  
**Reg. Ent. Reference No.** RN101557205  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Elvia Maske

**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification. Specifically, the Stage II annual compliance testing had not been conducted.

**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"/>
semiannual	<input type="text"/>
annual	<input type="text" value="x"/>
single event	<input type="text"/>

**Violation Base Penalty**

One annual event is recommended for the 12-month period preceding the October 8, 2007 investigation.

**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:** Ali Shahjhan dba Brownies  
**Case ID No.:** 35127  
**Reg. Ent. Reference No.:** RN101557205  
**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)				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]	\$1,000	8-Oct-2006	8-Oct-2007	1.9	\$96	\$1,000	\$1,096
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for annual testing to verify proper operation of the Stage II equipment. The date required is one year prior to the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$1,000

**TOTAL**

\$1,096

# Compliance History

Customer/Respondent/Owner-Operator:	CN601576481    SHAHJHAN, ALI	Classification: AVERAGE	Rating: 4.33
Regulated Entity:	RN101557205    BROWNIES	Classification: AVERAGE	Site Rating: 4.33
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	15591
Location:	501 BEDFORD RD, BEDFORD, TX, 76022	Rating Date: September 01 07	Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	December 18, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	December 18, 2002 to December 18, 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?    | 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 | 04/07/2006 | (460644) |  |
| 2 | 05/31/2006 | (467261) |  |
| 3 | 11/13/2007 | (598557) |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |                                                                                                                                                                                                                                                                                                                                 |                 |          |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|----------|
| Date:        | 04/07/2006                                                                                                                                                                                                                                                                                                                      | (460644)        |          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.245(2)                                                                                                                                                                                                                                                                                     |                 |          |
| Description: | Failure to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TXP-101, Vapor Space Manifold, and TXP-103, |                 |          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.222(1)                                                                                                                                                                                                                                                                                     |                 |          |
| Description: | Failure to ensure that fuel container (fill pipe) is equipped with a submerged fill pipe as defined in 30 TAC 115.010.                                                                                                                                                                                                          |                 |          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(A)                                                                                                                                                                                                                                                                                  |                 |          |
| Description: | Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resource Board (CARB) Executive Order(s), and free of defects that would impair the effectiveness of the system.                                                    |                 |          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: | Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.222(3)<br>30 TAC Chapter 115, SubChapter C 115.242(4)                                                                                                                                                                                                                                      |                 |          |
| Description: | Failure to eliminate any avoidable gasoline leaks, as detected by sight, sound, or smell, exist anywhere in the liquid transfer or vapor balance system.                                                                                                                                                                        |                 |          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: | Minor    |

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)  
Description: Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives of the Texas Commission on Environmental Quality (TCEQ), EPA, or any local air pollution control program.

- 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  
ALI SHAHJHAN DBA BROWNIES  
RN101557205

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2007-2035-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 Ali Shahjhan dba Brownies ("Mr. Shahjhan") under the authority of TEX. WATER CODE chs. 7 and 26, and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Shahjhan appear before the Commission and together stipulate that:

1. Mr. Shahjhan owns and operates a convenience store with retail sales of gasoline located at 501 Bedford Road in Bedford, Tarrant County, Texas (the "Station").
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. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Mr. Shahjhan agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Shahjhan is subject to the Commission's jurisdiction.
4. Mr. Shahjhan received notice of the violations alleged in Section II ("Allegations") on or about November 18, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Shahjhan of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of five thousand eight hundred twenty-one dollars (\$5,821.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Shahjhan paid one hundred eighty-six dollars (\$186.00) of the

administrative penalty. The remaining amount of five thousand six hundred thirty-five dollars (\$5,635.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred sixty one dollars (\$161.00) 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. Shahjhan 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. Shahjhan's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Shahjhan 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. Shahjhan agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Mr. Shahjhan submitted a UST Registration and Self-Certification form to the agency and obtained a current TCEQ delivery certificate.
10. 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. Shahjhan has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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

1. During an investigation conducted on October 8, 2007, a TCEQ Dallas/ Fort Worth Regional Office investigator documented that Mr. Shahjhan violated:
  - a. 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), by failing to renew a previously issued UST delivery certificate by timely and proper submission of a

completed UST registration and self-certification form to the agency at least 30 days before the expiration date of the delivery certificate;

- b. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs; and
  - c. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to verify proper operations of the Stage II equipment at least once every 12 months or upon major system replacement or modification.
2. Mr. Shahjhan received notice of the violations on or about November 18, 2007.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Shahjhan pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Mr. Shahjhan'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: Ali Shahjhan dba Brownies, Docket No. 2007-2035-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. Shahjhan shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Mr. Shahjhan shall conduct the required annual testing for the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245(2); and

- b. Within 45 days after the effective date of this Order, Mr. Shahjhan shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision No. 2.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.”

Mr. Shahjhan shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. 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:

Susan Clewis, Waste Section Manager  
Texas Commission on Environmental Quality  
Corpus Christi Regional Office  
6300 Ocean Drive, NCR Building, Suite 1200  
Corpus Christi, Texas 78412

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Shahjhan. Mr. Shahjhan is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If Mr. Shahjhan 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. Shahjhan's failure to comply is not a violation of this Agreed Order. Mr. Shahjhan shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Shahjhan shall notify the

Executive Director within seven days after Mr. Shahjhan becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. 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. Shahjhan shall be made in writing to the Executive Director. Extensions are not effective until Mr. Shahjhan receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Shahjhan 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.
7. 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.
8. 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. Shahjhan, or three days after the date on which the Commission mails notice of the Order to Mr. Shahjhan, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Ali Shahjhan dba Brownies  
DOCKET NO. 2007-2035-PST-E  
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### SIGNATURE PAGE

#### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*[Signature]*

5/11/2009

For the Executive Director

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 Mr. Shahjhan's failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Shahjhan's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Shahjhan;
- 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. Shahjhan;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Shahjhan; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

*[Signature]*

Signature

04/13/2009

Date

ALI SHAHJHAN

Name (Printed or typed)  
Authorized representative of  
Ali Shahjhan dba Brownies

OWNER

Title