

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0475-PST-E TCEQ ID: RN102401809 CASE NO.: 35567
RESPONDENT NAME: MOHAMMAD SULTAN

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

SITE WHERE VIOLATION(S) OCCURRED: 3190 North Main Street, Vidor, Orange County

TYPE OF OPERATION: Former retail gasoline service station

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: A complaint was received January 11, 2008, alleging that the inactive USTs at the Facility may be contaminating a water well. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainant has not expressed a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired May 18, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Stephanie Frazee, Litigation Division, MC 175, (512) 239-3693
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896

TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondent: Mr. Mohammad Sultan, 3190 North Main Street, Vidor, TX 77662

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" 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: January 11, 2008</p> <p>Date of Investigation Relating to this Case: January 14, 2008</p> <p>Date of NOE Relating to this Case: March 6, 2008</p> <p>Background Facts: The EDRP was filed October 2, 2008. The Respondent filed an answer and the case was referred to SOAH. A preliminary hearing was scheduled for February 19, 2009. The Respondent signed the Agreed Order on February 5, 2009.</p> <p>Current Compliance Status: Not yet in compliance.</p> <p>PST:</p> <p>1. Failed to provide an amended UST registration to the TCEQ for any change or additional information regarding USTs within thirty days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.47(d)(3)].</p> <p>2. Failed to permanently remove from service, no later than sixty days after the prescribed implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, and failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(b)(2)].</p>	<p>Total Assessed: \$6,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$500/\$5,500</p> <p>The Respondent paid \$500 of the administrative penalty. The remaining \$5,500 shall be paid in 20 monthly installments of \$275 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 Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <p>1. Within 30 days:</p> <p style="padding-left: 20px;">a. Permanently remove the UST system from service; and</p> <p style="padding-left: 20px;">b. Submit an amended registration to reflect the current operational status of the USTs.</p> <p>2. Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</p>

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision February 29, 2008

TCEQ DATES	Assigned	10-Mar-2008	Screening	12-Mar-2008	EPA Due	
	PCW	21-Jan-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Mohammad Sultan		
Reg. Ent. Ref. No.	RN102401809		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	35567	No. of Violations	2
Docket No.	2008-0475-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Steven Lopez
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		\$6,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	0% Enhancement	Subtotals 2, 3, & 7	\$0
Notes	No adjustment for compliance history.		
Culpability	No	0% Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
	<small>Before NOV NOV to EDPRP/Settlement Offer</small>		
Extraordinary	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>		
N/A	X	<small>(mark with x)</small>	
Notes	The Respondent does not meet the good faith criteria.		
	0% Enhancement*	Subtotal 6	\$0
	<small>*Capped at the Total EB \$ Amount</small>		
Total EB Amounts	\$5,227		
Approx. Cost of Compliance	\$10,600		
SUM OF SUBTOTALS 1-7	Final Subtotal		\$6,000
OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
	Final Penalty Amount		\$6,000
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty		\$6,000
DEFERRAL	Reduction	Adjustment	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral not offered for non-expedited settlement.		
PAYABLE PENALTY			\$6,000

Screening Date 12-Mar-2008

Docket No. 2008-0475-PST-E

PCW

Respondent Mohammad Sultan

Policy Revision 2 (September 2002)

Case ID No. 35567

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102401809

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

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)	0	0%
	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) 0%

>> 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

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 12-Mar-2008	Docket No. 2008-0475-PST-E	PCW		
Respondent Mohammad Sultan		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 35567		<i>PCW Revision February 29, 2008</i>		
Reg. Ent. Reference No. RN102401809				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Steven Lopez				
Violation Number <input type="text" value="1"/>				
Rule Cite(s)	30 Tex. Admin. Code § 334.7(d)(3)			
Violation Description	Failed to provide an amended UST registration to the TCEQ for any change or additional information regarding USTs within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the USTs.			
	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"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="0%"/>
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>
Matrix Notes	100% of the rule requirement was not met.			
				Adjustment <input type="text" value="\$9,000"/>
				<input type="text" value="\$1,000"/>
Violation Events				
	Number of Violation Events	<input type="text" value="1"/>	Number of violation days	<input type="text" value="42"/>
<i>mark only one with an x</i>	daily	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="checkbox"/>		
			Violation Base Penalty	<input type="text" value="\$1,000"/>
	One single event is recommended.			
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	<input type="text" value="\$4"/>	Violation Final Penalty Total	<input type="text" value="\$1,000"/>
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$1,000"/>

Economic Benefit Worksheet

Respondent Mohammad Sultan
Case ID No. 35567
Reg. Ent. Reference No. RN102401809
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
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	14-Jan-2008	30-Nov-2008	0.9	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the date of investigation and the Final Date is the estimated date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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 \$4

Screening Date 12-Mar-2008	Docket No. 2008-0475-PST-E	PCW
Respondent Mohammad Sultan		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 35567		<i>PCW Revision February 29, 2008</i>
Reg. Ent. Reference No. RN102401809		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Steven Lopez		
Violation Number	2	
Rule Cite(s)	30 Tex. Admin. Code §§ 334.47(a)(2) and 334.54(b)(2)	
Violation Description	Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. Also, the Respondent failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons.	
	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	x	<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 Number of violation days

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

Violation Base Penalty \$5,000

Two monthly events are recommended based on documentation of the violation during the January 14, 2008 investigation to the March 12, 2008 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input style="width: 150px;" type="text" value="\$5,223"/>	Violation Final Penalty Total <input style="width: 150px;" type="text" value="\$5,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input style="width: 150px;" type="text" value="\$5,000"/>	

Economic Benefit Worksheet

Respondent Mohammad Sultan
Case ID No. 35567
Reg. Ent. Reference No. RN102401809
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
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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)	\$10,500	22-Dec-1998	30-Nov-2008	9.9	\$5,223	n/a	\$5,223

Notes for DELAYED costs
 Estimated cost to permanently remove from service two USTs with a combined capacity of 14,000 gallons at \$0.75 per gallon. The Date Required is the date when the Respondent was required to upgrade the UST system and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,500

TOTAL \$5,223

Compliance History

Customer/Respondent/Owner-Operator:	CN603315656	MOHAMMAD SULTAN	Classification: AVERAGE	Rating: 1.00
Regulated Entity:	RN102401809	JRS FOOD MART	Classification: AVERAGE	Site Rating: 1.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	7643	
Location:	3190 N MAIN ST, VIDOR, TX, 77662	Rating Date: 9/1/2007	Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	April 11, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 11, 2003 to April 11, 2008			

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

Name: Shontay Wilcher Phone: (512) 239-2136

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? 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 06/30/2004 (277619)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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
MOHAMMAD SULTAN,
RN102401809

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§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-0475-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 Mohammad Sultan ("Mr. Sultan") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Sultan, appear before the Commission and together stipulate that:

1. Mr. Sultan owns a former retail gasoline service station located at 3190 North Main Street, Vidor, Orange 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. Sultan agree that the Commission has jurisdiction to enter this Agreed Order and that Mr. Sultan is subject to the Commission's jurisdiction.
4. Mr. Sultan received notice of the violations alleged in Section II ("Allegations") on or about March 11, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Sultan of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of six thousand dollars (\$6,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr.

Sultan has paid five hundred dollars (\$500.00) of the administrative penalty. The remaining amount of five thousand five hundred dollars (\$5,500.00) shall be payable in twenty monthly installments of two hundred seventy five dollars (\$275.00) each. The first monthly payment shall be paid within thirty days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than thirty days following the due date of the previous payment until paid in full.

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. Sultan have 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. Sultan 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

Mr. Sultan is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 334.7(d)(3) for failing to provide an amended UST registration to the TCEQ for any change or additional information regarding USTs within thirty days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the USTs as documented on January 14, 2008.
2. 30 TEX. ADMIN. CODE §§ 334.47(a)(2) and 334.54(b)(2) for failing to permanently remove from service, no later than sixty days after the prescribed implementation date, two USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements and by failing to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured

manner to prevent access, tampering, or vandalism by unauthorized persons as documented on January 14, 2008.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Sultan pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Sultan'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: Mohammad Sultan, Docket No. 2008-0475-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. Sultan shall undertake the following technical requirements:

- a. Within thirty days after the effective date of this Agreed Order, Mr. Sultan shall:
 - i. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and
 - ii. Submit an amended registration to reflect the current operational status of the USTs, 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 forty five days after the effective date of this Agreed Order, Mr. Sultan shall 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. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following 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 information submitted 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

and

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

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

after Mr. Sultan 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. Sultan shall be made in writing to the Executive Director. Extensions are not effective until Mr. Sultan 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. Sultan 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 agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement 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. Sultan, or three days after the date on which the Commission mails notice of the Order to Mr. Sultan, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Mohammad Sultan
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John M. Perdue

For the Executive Director

5/13/2009

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

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

Mohammad Sultan

Signature

2-27-09

Date

Mohammad Sultan
Name (Printed or typed)

Individual
Title