

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0692-PST-E TCEQ ID: RN101283448 CASE NO.: 37613
RESPONDENT NAME: AFZAL SHEKHANI DBA ADAMS PLAZA

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

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

SITE WHERE VIOLATION(S) OCCURRED: 1135 Aldine Bender Road, Houston, Harris 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 September 7, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Rajesh Acharya, Waste Enforcement Section, MC 128, (512) 239-0577

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Afzal Shekhani, Owner, Adams Plaza, 1135 Aldine Bender Road, Houston, Texas 77032

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 8, 2009</p> <p>Date of NOE Relating to this Case: April 25, 2009</p> <p>Background Facts: The EDP RP was filed June 18, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDP RP on June 22, 2009. The Respondent failed to answer the EDP RP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent's delivery certificate expired in August 2008.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)]. Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii)]. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)]. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.244(1) and (3)]. 	<p>Total Assessed: \$ 6,728</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$6,728</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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's UST delivery certificate is revoked immediately upon the effective date of this Order. The Respondent may submit an application for a new delivery certificate only after the Respondent complies with the terms of this Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form. Within 10 days, surrender his UST delivery certificate to the TCEQ. Within 30 days: <ol style="list-style-type: none"> Begin maintaining all UST records; Begin conducting required daily and monthly inspections of the Stage II vapor recovery system; Post operating instructions on the front of each gasoline dispensing pump; and Ensure that at least one Station representative successfully completes the Stage II training and each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system. Within 45 days, submit written certification and include supporting documentation to demonstrate compliance with Ordering Provision Nos. 1 and 3.a. through 3.d.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with Stage II equipment [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(9)].</p> <p>6. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(1)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	4-May-2009	Screening	11-May-2009	EPA Due	
	PCW	11-May-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Afzal Shekhani dba Adams Plaza
Reg. Ent. Ref. No.	RN101283448
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37613	No. of Violations	6
Docket No.	2009-0692-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rajesh Acharya
		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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Subtotals 2, 3, & 7

Notes

Culpability Subtotal 4

Notes

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Subtotal 6

Total EB Amounts
Approx. Cost of Compliance
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes

PAYABLE PENALTY

Screening Date 11-May-2009

Docket No. 2009-0692-PST-E

PCW

Respondent Afzal Shekhani dba Adams Plaza

Policy Revision 2 (September 2002)

Case ID No. 37613

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101283448

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

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	3	6%
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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs for non-similar violations.

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

Screening Date 11-May-2009	Docket No. 2009-0692-PST-E	PCW			
Respondent Afzal Shekhani dba Adams Plaza	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 37613	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No. RN101283448					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Rajesh Acharya					
Violation Number	1				
Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)				
Violation Description	Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, records regarding financial assurance, inventory control records and reconciliation, overfill prevention, corrosion protection were not available.				
Base Penalty		\$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="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>	
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				\$9,000	
				\$1,000	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days <input type="text" value="33"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="text" value="x"/>			
				Violation Base Penalty <input type="text" value="\$1,000"/>	
One single event is recommended based on the documentation of the violation during the April 8, 2009 investigation.					
Good Faith Efforts to Comply		0.0% Reduction	\$0		
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
N/A	<input checked="" type="text" value="x"/>	<input type="text" value="(mark with x)"/>			
Notes	The Respondent does not meet the good faith criteria for this violation.				
Violation Subtotal				\$1,000	
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount <input type="text" value="\$17"/>		Violation Final Penalty Total <input type="text" value="\$1,121"/>			
This violation Final Assessed Penalty (adjusted for limits)				\$1,121	

Economic Benefit Worksheet

Respondent Afzal Shekhani dba Adams Plaza
 Case ID No. 37813
 Reg. Ent. Reference No. RN101283448
 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				0.00	\$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	\$500	8-Apr-2009	8-Dec-2009	0.67	\$17	n/a	\$17
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain UST records. Date Required is the investigation date. 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				0.00	\$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 \$500 TOTAL \$17

Screening Date 11-May-2009	Docket No. 2009-0692-PST-E	PCW		
Respondent Afzal Shekhani dba Adams Plaza		Policy Revision 2 (September 2002)		
Case ID No. 37613		PCW Revision October 30, 2008		
Reg. Ent. Reference No. RN101283448				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Rajesh Acharya				
Violation Number <input type="text" value="2"/>				
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(B)(ii)			
Violation Description	Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 1, 2008.			
	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="text" value="x"/>	<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="219"/>
mark only one with an x	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input checked="" type="text" value="x"/>		
			Violation Base Penalty	<input type="text" value="\$1,000"/>
	One single event is recommended.			
Good Faith Efforts to Comply				
	0.0% Reduction			<input type="text" value="\$0"/>
	Before NOV	NOV to EDPRP/Settlement Offer		
	Extraordinary	<input type="text"/>	<input type="text"/>	
	Ordinary	<input type="text"/>	<input type="text"/>	
	N/A	<input checked="" type="text" value="x"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.			
			Violation Subtotal	<input type="text" value="\$1,000"/>
Economic Benefit (EB) for this violation				
	Estimated EB Amount	<input type="text" value="\$7"/>		
		Violation Final Penalty Total		<input type="text" value="\$1,121"/>
		This violation Final Assessed Penalty (adjusted for limits)		<input type="text" value="\$1,121"/>

Economic Benefit Worksheet

Respondent Afzal Shekhani dba Adams Plaza
Case ID No. 37613
Reg. Ent. Reference No. RN101283448
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	Overtime Costs	EB Amount
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	2-Aug-2008	2-Dec-2009	1.33	\$7	n/a	\$7

Notes for DELAYED costs
 Estimated cost to renew a delivery certificate by submitting a properly completed UST registration and self-certification form. Date Required is 30 days before the expiration date of the delivery certificate. Final Date is the estimated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$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 TOTAL

\$100	\$7
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Screening Date 11-May-2009	Docket No. 2009-0692-PST-E	PCW				
Respondent Afzal Shekhani dba Adams Plaza	<small>Policy Revision 2 (September 2002)</small>					
Case ID No. 37613	<small>PCW Revision October 30, 2008</small>					
Reg. Ent. Reference No. RN101283448						
Media [Statute] Petroleum Storage Tank						
Enf. Coordinator Rajesh Acharya						
Violation Number <input type="text" value="3"/>						
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)"/>					
Violation Description	<input type="text" value="Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into 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 type="text" value="x"/>	<input type="text"/>	<input type="text"/>	
					Percent	<input type="text" value="10%"/>
Matrix Notes	<input type="text" value="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="1"/>	
<small>mark only one with an x</small>	daily	<input type="text"/>				
	weekly	<input type="text"/>				
	monthly	<input type="text"/>				
	quarterly	<input type="text"/>				
	semiannual	<input type="text"/>				
	annual	<input type="text"/>				
	single event	<input type="text" value="x"/>				
Violation Base Penalty					<input type="text" value="\$1,000"/>	
<input type="text" value="One single event is recommended."/>						
Good Faith Efforts to Comply						
		0.0% Reduction				
		<small>Before NOV</small>	<small>NOV to EDRP/Settlement Offer</small>			
Extraordinary	<input type="text"/>	<input type="text"/>				
Ordinary	<input type="text"/>	<input type="text"/>				
N/A	<input type="text" value="x"/>	<input type="text" value="(mark with x)"/>				
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>					
Violation Subtotal					<input type="text" value="\$1,000"/>	
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$0"/>	Violation Final Penalty Total		<input type="text" value="\$1,121"/>	
This violation Final Assessed Penalty (adjusted for limits)					<input type="text" value="\$1,121"/>	

Economic Benefit Worksheet

Respondent Afzal Shekhani dba Adams Plaza
Case ID No. 37613
Reg. Ent. Reference No. RN101283448
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
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in violation no. 2.

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 \$0 TOTAL \$0

Screening Date 11-May-2009 **Docket No.** 2009-0692-PST-E **PCW**
Respondent Afzal Shekhani dba Adams Plaza *Policy Revision 2 (September 2002)*
Case ID No. 37613 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101283448
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Rajesh Acharya
Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 115.244(1) and (3) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to conduct daily and monthly inspections of the Stage II vapor recovery system.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix
 OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.
Adjustment \$9,000

\$1,000

Violation Events
 Number of Violation Events: 1 33 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000
 One quarterly event is recommended based on documentation of the violation during the April 8, 2009 investigation to the May 11, 2009 screening date.

Good Faith Efforts to Comply 0.0% Reduction **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.
Violation Subtotal \$1,000

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$368 **Violation Final Penalty Total** \$1,121
This violation Final Assessed Penalty (adjusted for limits) \$1,121

Economic Benefit Worksheet

Respondent Afzal Shekhani dba Adams Plaza
Case ID No. 37613
Reg. Ent. Reference No. RN101283448
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$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]	\$350	8-Mar-2009	8-Apr-2009	1.00	\$18	\$350	\$368
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct the required inspections of the components of the Stage II vapor recovery system. Date Required is one month prior to the investigation date. Final Date is the investigation date.

Approx. Cost of Compliance

\$350

TOTAL

\$368

Screening Date 11-May-2009	Docket No. 2009-0692-PST-E	PCW														
Respondent Afzal Shekhani dba Adams Plaza		Policy Revision 2 (September 2002)														
Case ID No. 37613		PCW Revision October 30, 2008														
Reg. Ent. Reference No. RN101283448																
Media [Statute] Petroleum Storage Tank																
Enf. Coordinator Rajesh Acharya																
Violation Number <input type="text" value="5"/>																
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 115.242(9) and Tex. Health & Safety Code § 382.085(b)"/>															
Violation Description	<input type="text" value="Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with Stage II equipment."/>															
	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"/>														
Potential	<input type="text"/>	<input type="text" value="x"/>														
	Percent	<input type="text" value="10%"/>														
>> Programmatic Matrix																
	Falsification Major Moderate Minor															
	<input type="text"/>	<input type="text"/>														
	Percent	<input type="text" value="0%"/>														
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>															
	Adjustment	<input type="text" value="\$9,000"/>														
		<input type="text" value="\$1,000"/>														
Violation Events																
Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="33"/> Number of violation days														
mark only one with an x	<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;">weekly</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" value="x"/></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><input type="text"/></td></tr> </table>	daily	<input type="text"/>	weekly	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input type="text" value="x"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty
daily	<input type="text"/>															
weekly	<input type="text"/>															
monthly	<input type="text"/>															
quarterly	<input type="text" value="x"/>															
semiannual	<input type="text"/>															
annual	<input type="text"/>															
single event	<input type="text"/>															
		<input type="text" value="\$1,000"/>														
	<input type="text" value="One quarterly event is recommended based on documentation of the violation during the April 8, 2009 investigation to the May 11, 2009 screening date."/>															
Good Faith Efforts to Comply	0.0% Reduction	<input type="text" value="\$0"/>														
	Before NOV NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="text"/>	<input type="text"/>														
Ordinary	<input type="text"/>	<input type="text"/>														
N/A	<input type="text" value="x"/>	(mark with x)														
Notes	<input type="text" value="The Respondent does not meet the good faith criteria for this violation."/>															
	Violation Subtotal	<input type="text" value="\$1,000"/>														
Economic Benefit (EB) for this violation																
Statutory Limit Test																
Estimated EB Amount	<input type="text" value="\$2"/>	Violation Final Penalty Total														
		<input type="text" value="\$1,121"/>														
	This violation Final Assessed Penalty (adjusted for limits)															
	<input type="text" value="\$1,121"/>															

Economic Benefit Worksheet

Respondent Afzal Shekhani dba Adams Plaza
Case ID No. 37613
Reg. Ent. Reference No. RN101283448
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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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)	\$50	8-Apr-2009	8-Dec-2009	0.67	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to post operating instructions. Date Required is the investigation date. Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

	\$50
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TOTAL

	\$2
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Screening Date 11-May-2009	Docket No. 2009-0692-PST-E	PCW			
Respondent Afzal Shekhani dba Adams Plaza	Policy Revision 2 (September 2002)				
Case ID No. 37613	PCW Revision October 30, 2008				
Reg. Ent. Reference No. RN101283448					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Rajesh Acharya					
Violation Number 6					
Rule Cite(s)	30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)				
Violation Description	Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual				
	Potential		x		
		Percent	10%		
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
					Percent
					0%
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.				
		Adjustment		\$9,000	
				\$1,000	
Violation Events					
		Number of Violation Events	1	Number of violation days	33
mark only one with an x	daily				
	weekly				
	monthly				
	quarterly		x		
	semiannual				
	annual				
	single event				
		Violation Base Penalty			\$1,000
		One quarterly event is recommended based on documentation of the violation during the April 8, 2009 investigation to the May 11, 2009 screening date.			
Good Faith Efforts to Comply			0.0% Reduction		
		Before NOV		NOV to EDPRP/Settlement Offer	
Extraordinary					
Ordinary					
N/A	x	(mark with x)			
Notes	The Respondent does not meet the good faith criteria for this violation.				
		Violation Subtotal		\$1,000	
Economic Benefit (EB) for this violation			Statutory Limit Test		
		Estimated EB Amount	\$17	Violation Final Penalty Total	\$1,121
		This violation Final Assessed Penalty (adjusted for limits)			\$1,121

Economic Benefit Worksheet

Respondent Afzal Shekhani dba Adams Plaza
Case ID No. 37613
Reg. Ent. Reference No. RN101283448
Media Petroleum Storage Tank
Violation No. 6

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				0.00	\$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	\$500	8-Apr-2009	8-Dec-2009	0.67	\$17	n/a	\$17
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost of training Stage II Station representative. Date Required is the investigation date. Final Date is the estimated 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

\$500

TOTAL

\$17

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600691943 Afzal Shekhani	Classification: AVERAGE	Rating: 1.37
Regulated Entity:	RN101283448 Adams Plaza	Classification: AVERAGE	Site Rating: 2.75
ID Number(s):	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1012155
	PETROLEUM STORAGE TANK	REGISTRATION	33787
	REGISTRATION		
Location:	1135 ALDINE BENDER RD, HOUSTON, TX, 77032		
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	May 11, 2009		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 11, 2004 to May 11, 2009		

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

Name: Rajesh Acharya Phone: (512) 239-0577

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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? Afzal Shekhani
4. If Yes, who was/were the prior owner(s)/operator(s) ? Williams, Richard
5. When did the change(s) in owner or operator occur? 08/14/2007
6. Rating Date: 9/1/2008 Repeat Violator: NO

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.)

N/A	1	08/30/2006	(497196)
	2	11/06/2006	(515621)
	3	01/19/2007	(535395)
	4	05/01/2009	(742128)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/09/2006	(497196)	
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.246(7)(A)		
Description:	At the time of the investigation documentation of Stage II Facility Representative Training and subsequent trained employees, Maintenance logs, Annual and Triennial Test Results, were not on site and available for review.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(3)		
Description:	Please provide documentation that a maintenance log is being maintained for the facility.		
Self Report?	NO		Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
Description: At the time of the investigation, the results of all Stage II tests for this facility were not available for review. These include the Stage II annual and triennial/full system test results.

Date: 08/30/2006 (497196)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: At the time of the investigation there were no swivel adaptors installed on any of the fill ports or Stage I dry breaks.

Date: 11/06/2006 (515621)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(A)

Description: At the time of the investigation there were no swivel adaptors installed on any of the fill ports or Stage I dry breaks.

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
AFZAL SHEKHANI DBA ADAMS
PLAZA;
RN101283448

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT ORDER
DOCKET NO. 2009-0692-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent and revocation of the respondent's fuel delivery certificate. The respondent made the subject of this Order is Afzal Shekhani dba Adams Plaza ("Mr. Shekhani").

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

FINDINGS OF FACT

1. Mr. Shekhani owns and operates a convenience store with retail sales of gasoline located at 1135 Aldine Bender Road, Houston, Harris County, Texas (the "Station").
2. Mr. Shekhani's four (4) underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Shekhani's USTs contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During an investigation conducted on April 8, 2009, a TCEQ Houston Regional Office investigator documented that Mr. Shekhani:
 - a. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, records regarding financial assurance, inventory control records and reconciliation, overfill prevention, corrosion protection were not available;

- b. Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 1, 2008;
 - c. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs;
 - d. Failed to conduct daily and monthly inspections of the Stage II vapor recovery system;
 - e. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with Stage II equipment; and
 - f. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment.
4. Mr. Shekhani received notice of the violations on or about May 1, 2009.
 5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Afzal Shekhani dba Adams Plaza" (the "EDPRP") in the TCEQ Chief Clerk's office on June 18, 2009.
 6. By letter dated June 18, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Shekhani with notice of the EDPRP. According to the return receipt "green card," Mr. Shekhani received notice of the EDPRP on June 22, 2009, as evidenced by the signature on the card.
 7. More than 20 days have elapsed since Mr. Shekhani received notice of the EDPRP, provided by the Executive Director. Mr. Shekhani failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Shekhani is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.

2. As evidenced by Finding of Fact No. 3.a., Mr. Shekhani failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b).
3. As evidenced by Finding of Fact No. 3.b., Mr. Shekhani failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(B)(ii).
4. As evidenced by Finding of Fact No. 3.c., Mr. Shekhani failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).
5. As evidenced by Finding of Fact No. 3.d., Mr. Shekhani failed to conduct daily and monthly inspections of the Stage II vapor recovery system, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.244(1) and (3).
6. As evidenced by Finding of Fact No. 3.e., Mr. Shekhani failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with Stage II equipment, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.242(9).
7. As evidenced by Finding of Fact No. 3.f., Mr. Shekhani failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and correct operation of the Stage II equipment, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.248(1).
8. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Shekhani with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
9. As evidenced by Finding of Fact No. 7, Mr. Shekhani failed to file a timely answer to the EDPRP as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Shekhani and assess the penalty recommended by the Executive Director.

10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Shekhani for violations of the Texas Water Code and the Texas Health & Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
11. An administrative penalty in the amount of six thousand seven hundred twenty-eight dollars (\$6,728.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
13. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Mr. Shekhani's UST fuel delivery certificate if the Commission finds that good cause exists.
14. Good cause for revocation of Mr. Shekhani's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2, 3, 5, 6, and 7 and Conclusions of Law Nos. 2 through 9.

ORDERING PROVISIONS

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

1. Mr. Shekhani is assessed an administrative penalty in the amount of six thousand seven hundred twenty eight dollars (\$6,728.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Mr. Shekhani's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Afzal Shekhani dba Adams Plaza; Docket No. 2009-0692-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. Shekhani's UST fuel delivery certificate is revoked immediately upon the effective date

of this Order. Mr. Shekhani may submit an application for a new fuel delivery certificate only after Mr. Shekhani has complied with all of the requirements of this Order.

3. Within 10 days after the effective date of this Order, Mr. Shekhani shall send his UST fuel delivery certificate to:

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

4. Mr. Shekhani shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, Mr. Shekhani shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8.
- b. Within 30 days after the effective date of this Order, Mr. Shekhani shall:
 - i. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10;
 - ii. Begin conducting required daily and monthly inspections of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.244;
 - iii. Post operating instructions on the front of each gasoline dispensing pump, in accordance with 30 TEX. ADMIN. CODE § 115.242; and
 - iv. Ensure that at least one Station representative successfully completes the required Stage II training and each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248.
- c. Within 45 days after the effective date of this Order, Mr. Shekhani shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 4.a. through 4.b. 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. Shekhani shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 4.a. through 4.b. 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:

Nicole Bealle, Waste Section Manager
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Mr. Shekhani. Mr. Shekhani is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
7. If Mr. Shekhani fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Shekhani's failure to comply is not a violation of this Order. Mr. Shekhani shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Shekhani shall notify the Executive Director within seven days after Mr. Shekhani becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Shekhani shall be made in writing to the Executive Director. Extensions are not effective until Mr. Shekhani receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
9. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Shekhani if the Executive Director determines that Mr. Shekhani has not complied with one or more of the terms or conditions in this Order.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BARHAM A. RICHARD

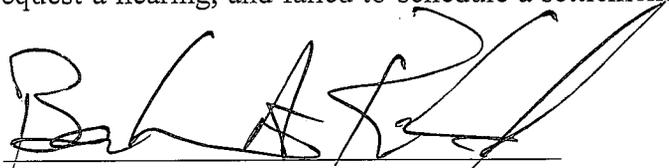
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Barham A. Richard. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Afzal Shekhani dba Adams Plaza” (the “EDPRP”) was filed with the Office of the Chief Clerk on June 18, 2009.

The EDPRP was mailed to Mr. Shekhani at his last known address on June 18, 2009, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” Mr. Shekhani received notice of the EDPRP on June 22, 2009, as evidenced by the signature on the card.

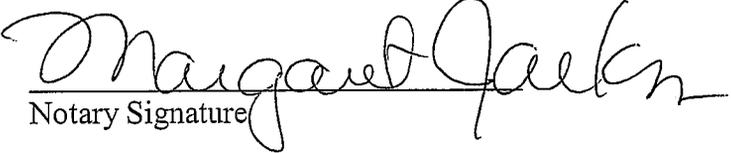
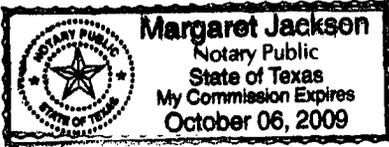
More than 20 days have elapsed since Mr. Shekhani received notice of the EDPRP. Mr. Shekhani failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”



Barham A. Richard, Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Given under my hand and seal of office this 21 day of July, A.D., 2009.



Notary Signature