

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1715-PST-E RN101906279 CASE NO. 38605
RESPONDENT NAME: SHAMSUDDIN LASSI d/b/a AJ'S 3,
SULEMAN SHAMSUDDIN d/b/a AJ'S 3, AND WAZIR A. DHANANI DBA AJ'S 3

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 checked="" 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: 701 East Waco Drive, Waco, McLennan 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 Respondents expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired September 27, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, (817) 588-5825

TCEQ Regional Contact: Mr. Frank Bureson, Waco Regional Office, MC R-9, (254) 761-3001

Respondent: Mr. Shamsuddin Lassi, 701 East Waco Drive, Waco, Texas 76704; Mr. Suleman Shamsuddin, 701 East Waco Drive, Waco, Texas 76704; Mr. Wazir A. Dhanani, 3820 Franklin Avenue, Waco, Texas 76710

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: <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: August 20, 2009</p> <p>Date of NOE Relating to this Case: December 18, 2009</p> <p>Background Facts: The EDP RP was filed on July 1, 2010, and mailed to each Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," Respondents received notice of the EDP RP on July 2 and 3, 2010. Respondents failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>A Notice of Intent ("NOI") to shut down the USTs at the Facility was mailed to each Respondent on August 11, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," each Respondent received the NOI on August 12, 2010. As of the date of the entry of this order, Respondents have not provided the ED with documentation demonstrating that the release detection and financial assurance violations have been corrected.</p> <p>Current Compliance Status: Respondents have not yet submitted documentation to certify compliance with the technical requirements. Respondents' delivery certificate expired January 31, 2006.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)]. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)]. 	<p>Total Assessed: \$18,021</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 Due to General Revenue: \$18,021</p> <p>This is a Default Order. Respondents have 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 (All Respondents): <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>Respondents shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, take the following steps to shut down operations of all USTs at the Facility: <ol style="list-style-type: none"> Cease dispensing fuel from the USTs; Cease receiving deliveries of regulated substances into the USTs; Padlock the dispensers; Empty the USTs of all regulated substances; and Temporarily remove the USTs from service. Respondents' USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction the Executive Director that violation nos. 6 and 7 have been corrected. If Respondents elect to permanently remove from service any portion of the UST system, Respondents shall immediately permanently remove the UST system from service, and within 15 days submit a written report documenting compliance. Respondents' UST fuel delivery certificate is revoked immediately. Respondents shall cease accepting fuel until such time as a valid delivery certificate is obtained from TCEQ. Respondents may submit an application for a new fuel delivery certificate only after Respondents have complied with all of the requirements set for in the Order. Within 10 days, Respondents shall send their UST fuel delivery certificate to the TCEQ. Within 15 days, submit documentation certifying compliance with Ordering Provision Nos. 1 and 5. Prior to receiving deliveries and resuming retail sales of gasoline: <ol style="list-style-type: none"> Begin maintaining all UST records; Begin conducting effective manual or automatic inventory control procedures for all USTs;

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>4. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE §§ 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>5. 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>6. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>7. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>8. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>9. Failed to inspect all sumps including the dispensers sumps, manways, overspill containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight [30 TEX. ADMIN. CODE § 334.42(i)].</p>		<p>c. Ensure the USTs are properly tagged, labeled, or marked with an identification number that matches the registration and self certification forms;</p> <p>d. Submit documentation that demonstrates acceptable financial assurance;</p> <p>e. Implement a release detection method for all USTs;</p> <p>f. Begin conducting bi-monthly inspections of all sumps, manways, overfill containers, or catchment basins associated with the UST system; and</p> <p>g. Obtain a new delivery certificate.</p> <p>8. Upon obtaining a new delivery certificate, post the certificate where it is clearly visible at all times.</p> <p>9. Within 10 days of resuming retail sales of gasoline, submit written certification demonstrating compliance with Ordering Provision Nos. 7 and 8.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Oct-2009			
	PCW	16-Feb-2010	Screening	26-Oct-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3				
Reg. Ent. Ref. No.	RN101906279				
Facility/Site Region	9-Waco	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	38605	No. of Violations	8		
Docket No.	2009-1715-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Judy Kluge		
		EC's Team	Enforcement Team 6		
Admin. Penalty \$ Limit	Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,500
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
---------------------------	------------------	--------------------------------	-----

Notes	No adjustment due to compliance history.
--------------	--

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

Notes	The Respondent does not meet the culpability criteria.
--------------	--

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

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

Total EB Amounts	\$2,631	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,050	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,500
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	16.3%	Adjustment	\$2,521
---	-------	-------------------	---------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 3, 5, and 8.
--------------	---

Final Penalty Amount	\$18,021
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,021
-----------------------------------	-------------------------------	----------

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

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

Notes	Deferral not offered for non-expedited settlement.
--------------	--

PAYABLE PENALTY	\$18,021
------------------------	----------

Screening Date 26-Oct-2009

Docket No. 2009-1715-PST-E

PCW

Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A.

Policy Revision 2 (September 2002)

Case ID No. 38605

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101906279

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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 due to compliance history.

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

Screening Date 26-Oct-2009 **Docket No.** 2009-1715-PST-E **PCW**
Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani d *Policy Revision 2 (September 2002)*
Case ID No. 38605 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101906279
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number
Rule Cite(s)
Violation Description
Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

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

Matrix Notes
Adjustment

Violation Events

Number of Violation Events Number of violation days
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 type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement
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
Violation Subtotal

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 Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3
Case ID No. 38605
Reg. Ent. Reference No. RN101906279
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-Aug-2009	26-Jun-2010	0.85	\$4	n/a	\$4

Notes for DELAYED costs

The estimated cost includes the amount required to permanently affix a metal label to each UST fill tube. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 26-Oct-2009 **Docket No.** 2009-1715-PST-E **PCW**
Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani db *Policy Revision 2 (September 2002)*
Case ID No. 38605 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101906279
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
		<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	
<input type="text" value="100% of the rule requirement was not met."/>					

Adjustment

Violation Events

Number of Violation Events Number of violation days

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 type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	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"/>	<input type="text" value="(mark with x)"/>

Notes

Violation Subtotal

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 Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3
Case ID No. 38605
Reg. Ent. Reference No. RN101906279
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	20-Aug-2009	26-May-2010	0.76	\$19	n/a	\$19
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. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$19

Screening Date 26-Oct-2009 **Docket No.** 2009-1715-PST-E **PCW**
Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani db *Policy Revision 2 (September 2002)*
Case ID No. 38605 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101906279
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)
Violation Description Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the owner's correct name and contact information, and the current operational status of the UST system. Also, failed to timely renew a previously issued UST 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 January 31, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent 0%	
	Release	Major	Moderate		Minor
	Actual				
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent 10%
		x			

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 1394 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$4,000

Four annual events are recommended.

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 \$4,000

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

Estimated EB Amount \$372 **Violation Final Penalty Total** \$4,651

This violation Final Assessed Penalty (adjusted for limits) \$4,651

Economic Benefit Worksheet

Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3
Case ID No. 38605
Reg. Ent. Reference No. RN101906279
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	20-Aug-2009	26-May-2010	0.76	\$4	n/a	\$4

Notes for DELAYED costs

The delayed cost includes the estimated amount required to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is the date of the investigation. The final date is the expected compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	1-Jan-2006	20-Aug-2009	4.55	\$68	\$300	\$368
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost (\$100 per year) to accurately prepare and submit an updated registration and obtain a TCEQ delivery certificate. The date required is 30 days prior to the expiration date of the delivery certificate and the final date is the date of the investigation.

Approx. Cost of Compliance

\$400

TOTAL

\$372

Screening Date	26-Oct-2009	Docket No.	2009-1715-PST-E	PCW
Respondent	Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani db			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	38605			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101906279			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			
Violation Number	4			
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 investigator documented one delivery of fuel without a delivery certificate.			
	Base Penalty	\$10,000		

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				
	Potential			x	Percent 5%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 1 Number of violation days

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

Violation Base Penalty \$500

One single event (one event per delivery) is recommended.

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 \$500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$581

This violation Final Assessed Penalty (adjusted for limits) \$581

Economic Benefit Worksheet

Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3
Case ID No. 38605
Reg. Ent. Reference No. RN101906279
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	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 3.

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 26-Oct-2009 **Docket No.** 2009-1715-PST-E **PCW**
Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani db *Policy Revision 2 (September 2002)*
Case ID No. 38605 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101906279
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)
Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
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 3 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Three single events are recommended for the three USTs at the Facility.

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 \$3,000

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

Estimated EB Amount \$2,048 **Violation Final Penalty Total** \$3,488

This violation Final Assessed Penalty (adjusted for limits) \$3,488

Economic Benefit Worksheet

Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3
Case ID No. 38605
Reg. Ent. Reference No. RN101906279
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	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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]	\$1,950	20-Aug-2008	20-Aug-2009	1.00	\$98	\$1,950	\$2,048
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum USTs (at \$650 per tank) for the twelve month period preceding the date of the investigation.

Approx. Cost of Compliance

\$1,950

TOTAL

\$2,048

Screening Date	26-Oct-2009	Docket No.	2009-1715-PST-E	PCW
Respondent	Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani db			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	38605			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101906279			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			
Violation Number	6			
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)			
Violation Description	Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring).			
Base Penalty	\$10,000			

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x			25%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	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

	1	67	Number of violation days
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the August 20, 2009 investigation to the October 26, 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 \$2,500

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

Estimated EB Amount \$64 **Violation Final Penalty Total** \$2,907

This violation Final Assessed Penalty (adjusted for limits) \$2,907

Economic Benefit Worksheet

Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3
Case ID No. 38605
Reg. Ent. Reference No. RN101906279
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
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)	\$1,500	20-Aug-2009	26-Jun-2010	0.85	\$64	n/a	\$64

Notes for DELAYED costs

The estimated cost of monitoring all USTs for releases. The date required is the investigation date and the final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$64

Screening Date 26-Oct-2009 **Docket No.** 2009-1715-PST-E **PCW**
Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani db *Policy Revision 2 (September 2002)*
Case ID No. 38605 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101906279
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

	<input type="text" value="1"/>	<input type="text" value="67"/>	Number of violation days
<i>mark only one with an x</i>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	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"/>	

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
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

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 Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3
Case ID No. 38605
Reg. Ent. Reference No. RN101906279
Media Petroleum Storage Tank
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	20-Aug-2009	26-May-2010	0.76	\$19	n/a	\$19
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 conduct inventory control for all USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the date of the investigation and the final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$19

Screening Date 26-Oct-2009 **Docket No.** 2009-1715-PST-E **PCW**
Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani db *Policy Revision 2 (September 2002)*
Case ID No. 38605 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101906279
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code § 334.42(i)
Violation Description Failed to inspect all sumps including the dispenser sumps, manways, overflow containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential		x			

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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 67 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the August 20, 2009 investigation to the October 26, 2009 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/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 \$105

Violation Final Penalty Total \$1,163

This violation Final Assessed Penalty (adjusted for limits) \$1,163

Economic Benefit Worksheet

Respondent Shamsuddin Lassi, Suleman Shamsuddin, and Wazir A. Dhanani dba AJ's 3
Case ID No. 38605
Reg. Ent. Reference No. RN101906279
Media Petroleum Storage Tank
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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]	\$100	21-Jun-2009	20-Aug-2009	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of the sumps, manways, overflow containers or catchment basins. The date required is 60 days before the investigation and the final date is the investigation date.

Approx. Cost of Compliance

\$100

TOTAL

\$105

Compliance History Report

Customer/Respondent/Owner-Operator: CN603580432 Shamsuddin Lassi Classification: AVERAGE Rating: 3.01
Regulated Entity: RN101906279 AJ'S 3 Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 51518
Location: 701 E WACO DR, WACO, TX, 76704
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: October 23, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: October 23, 2004 to October 23, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 10/12/2009 (766977)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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

Compliance History Report

CH 2 of 3

Customer/Respondent/Owner-Operator: CN603596669 Suleman Shamsuddin Classification: AVERAGE Rating: 3.01
Regulated Entity: RN101906279 AJ'S 3 Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 51518
Location: 701 E WACO DR, WACO, TX, 76704
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: December 11, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 11, 2004 to December 11, 2009

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

Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 10/12/2009(766977)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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

Compliance History Report

CH 3 of 3

Customer/Respondent/Owner-Operator: CN603534538 DHANANI, WAZIR A. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN101906279 AJ'S 3 Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 51518
Location: 701 E WACO DR, WACO, TX, 76704
TCEQ Region: REGION 09 - WACO
Date Compliance History Prepared: December 11, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 11, 2004 to December 11, 2009

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

Name: Judy Kluge Phone: 817-588-5825

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 10/12/2009(766977)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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 SHAMSUDDIN LASSI DBA AJ'S 3, SULEMAN SHAMSUDDIN DBA AJ'S 3, AND WAZIR A. DHANANI DBA AJ'S 3; RN101906279	§ § § § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
---	--	---

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2009-1715-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondents' fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting entry of an Order requiring the respondents, Shamsuddin Lassi d/b/a AJ's 3 ("Mr. Lassi"), Suleman Shamsuddin d/b/a AJ's 3 ("Mr. Shamsuddin"), and Wazir A. Dhanani d/b/a AJ's 3 ("Mr. Dhanani") (jointly referred to as "Respondents"), to shutdown or remove from service the underground storage tanks ("USTs") at the Facility, located at 701 East Waco Drive, Waco, McLennan County, Texas.

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

FINDINGS OF FACT

1. Respondents own and operate three underground storage tanks ("USTs") and a convenience store with retail sales of gasoline located at 701 East Waco Drive, Waco, McLennan County, Texas (the "Facility").
2. The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
3. On August 20, 2009, an investigator from the TCEQ Waco Regional Office documented that Respondents:
 - a. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form;
 - b. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel;
 - c. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not

- updated to reflect the owner's correct name and contact information and the current operational status of the UST system;
- d. Failed to timely renew a previously issued UST 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 January 31, 2006;
 - e. 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 investigator documented one delivery of fuel without a delivery certificate;
 - f. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs;
 - g. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring);
 - h. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel; and
 - i. Failed to inspect all sumps including the dispenser sumps, manways, overspill containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight.
4. By letter dated December 18, 2009, the TCEQ Waco Regional Office provided Respondents with notice of the violations and TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations are not corrected.
 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 Shamsuddin Lassi d/b/a AJ's 3, Suleman Shamsuddin d/b/a AJ's 3, and Wazir A. Dhanani d/b/a AJ's 3" (the "EDPRP") in the TCEQ Chief Clerk's office on July 1, 2010.
 6. By letters dated July 1, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green card," Mr. Dhanani received notice of the EDPRP on July 2, 2010, and Mr. Lassi and Mr. Shamsuddin each received notice of the EDPRP on July 3, 2010, as evidenced by the signatures on the cards.
 7. More than 20 days have elapsed since Respondents received notice of the EDPRP provided by the Executive Director. Respondents failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

8. By letter dated August 11, 2010, TCEQ provided Respondents with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondents failed to correct the release detection and financial assurance violations within 30 days after Respondents' receipt of the notice.
9. As of the date of entry of this Order, Respondents have not provided the Executive Director with documentation demonstrating that the release detection and financial assurance violations alleged in Findings of Fact Nos. 3.f. and 3.g. have been corrected.
10. The USTs at the Facility do not have release detection as required by 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) or financial assurance as required by 30 TEX. ADMIN. CODE § 37.815(a) and (b) and TEX. WATER CODE § 26.352(i) and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Respondents violated 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.
3. As evidenced by Finding of Fact No. 3.b., Respondents violated 30 TEX. ADMIN. CODE § 334.10(b), by failing to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.
4. As evidenced by Finding of Fact No. 3.c., Respondents violated 30 TEX. ADMIN. CODE § 334.7(d)(3), by failing to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition.
5. As evidenced by Finding of Fact No. 3.d., Respondents violated 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), by failing to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date.
6. As evidenced by Finding of Fact No. 3.e., Respondents violated 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.
7. As evidenced by Finding of Fact No. 3.f., Respondents violated 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

8. As evidenced by Finding of Fact No. 3.g., Respondents violated 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), by failing to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring).
9. As evidenced by Finding of Fact No. 3.h., Respondents violated 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.
10. As evidenced by Finding of Fact No. 3.i., Respondents violated 30 TEX. ADMIN. CODE § 334.42(i), by failing to inspect all sumps including the dispenser sumps, manways, overspill containers, or catchment basins associated with the UST system at least once every 60 days to assure that the sides, bottoms, and any penetration points are maintained liquid-tight.
11. As evidenced by Findings of Fact Nos. 5 and 6, the Executive Director timely served Respondents with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
12. As evidenced by Finding of Fact No. 7, Respondents failed to file a timely answer, 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 Respondents and assess the penalty recommended by the Executive Director.
13. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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.
14. An administrative penalty in the amount of eighteen thousand twenty-one dollars (\$18,021.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
15. As evidenced by Findings of Fact Nos. 8 and 9, Respondents failed to correct documented violations of Commission release detection and financial assurance requirements within 30 days after Respondents received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
16. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overflow protection for tanks, corrosion protection for tanks and piping, and/or acceptable financial assurance.
17. 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.

18. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Respondents' UST fuel delivery certificate if the Commission finds that good cause exists.
19. Good cause for revocation of Respondents' UST fuel delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6, and 7, and Conclusions of Law Nos. 2 through 12.
20. As evidenced by Finding of Fact No. 10, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, Respondents shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. Respondents' USTs shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provision Nos. 1.a. through 1.e., until such time as Respondents demonstrates to the satisfaction of the Executive Director that the violations noted in Findings of Fact Nos. 3.f. and 3.g. and Conclusions of Law Nos. 7 and 8 have been corrected.
3. If Respondents elect to permanently remove from service any portion of the UST system at the Facility, Respondents shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
4. Respondents' UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondents shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8. Respondents may submit an application for a new fuel delivery certificate

only after Respondents have complied with all of the requirements set forth in this Order.

5. Within 10 days after the effective date of this Order, Respondents shall send their UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Within 15 days after the effective date of this Order, Respondents shall submit a detailed written report documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 5. The written report shall include detailed supporting documentation such as photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall include the following certification language:

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

The certified written report and supporting documentation 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

Frank Burlison, Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710-7826

7. Respondents are assessed an administrative penalty in the amount of eighteen thousand twenty-one dollars (\$18,021.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Order resolve only the violations set forth in this Order. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
8. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Shamsuddin Lassi d/b/a AJ's 3, Suleman Shamsuddin d/b/a AJ's 3, and Wazir A. Dhanani d/b/a AJ's 3; Docket No. 2009-1715-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

9. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondents shall:
 - a. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10; and
 - b. Begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.
 - c. Ensure that the USTs at the Facility are properly tagged, labeled, or marked with an identification number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8;
 - d. Submit documentation that demonstrates acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 TEX. ADMIN. CODE § 37.815;
 - e. Implement a release detection method for all USTs at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - f. Begin conducting bimonthly inspections of all sumps, manways, overfill containers, or catchment basins associated with the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.42; and
 - g. Obtain a new delivery certificate from the TCEQ.
10. Upon obtaining a new fuel delivery certificate, Respondents shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
11. Within 10 days of resuming retail sales of gasoline at the Facility, Respondents shall submit written certification as described below, and include detailed supporting documentation such as photographs, receipts, and/or other records, demonstrating compliance with Ordering Provision Nos. 9 and 10. The written certification shall be notarized by a State of Texas Notary Public and shall 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 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 fines and imprisonment."

The written certification and supporting documentation 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

Frank Burlison, Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Ave., Ste. 2500
Waco, Texas 76710-7826

12. All relief not expressly granted in this Order is denied.
13. The provisions of this Order shall apply to and be binding upon Respondents, and Respondents are ordered to give notice of this Order to all personnel who maintain day-to-day control of the USTs at the Facility.
14. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondents if the Executive Director determines that Respondents are noncompliant with or in violation of any of the terms and conditions set forth in this Order.
15. This Order shall terminate five years from its effective date or when Respondents demonstrate to the satisfaction of the Executive Director all of the violations noted herein have been corrected, whichever is later.
16. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF RUDY CALDERON

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Rudy Calderon. 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.

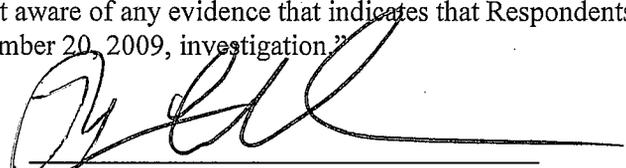
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Shamsuddin Lassi d/b/a AJ’s 3, Suleman Shamsuddin d/b/a AJ’s 3, and Wazir A. Dhanani d/b/a AJ’s 3” (the “EDPRP”) was filed with the Office of the Chief Clerk on July 1, 2010.

The EDPRP was mailed to each Respondent at his last known addresses on July 1, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green cards,” Mr. Dhanani received notice of the EDPRP on July 2, 2010, and Mr. Lassi and Mr. Shamsuddin each received notice of the EDPRP on July 3, 2010, as evidenced by the signatures on the cards.

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

By letters dated August 11, 2010, sent via first class mail and certified mail, return receipt requested article nos. 7009 1680 0002 2322 9476, 7009 1680 0002 2322 9483, and 7009 1680 0002 2322 9490, I provided each Respondent with notice of the TCEQ’s intent to order the USTs at the Facility shut down and removed from service if the violations pertaining to release detection and financial assurance were not corrected within 30 days of Respondents’ receipt of the letter. According to the return receipt “green cards,” each Respondent received the Notice on August 12, 2010, as evidenced by the signatures on the cards.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondents have corrected the violations noted during the September 20, 2009, investigation.”



Rudy Calderon, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Rudy Calderon, 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 3rd day of September, A.D., 2010.

Notary 