

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-0308-PST-E TCEQ ID: RN102474939 CASE NO.: 37245**  
**RESPONDENT NAME: WAJED ENT. INC. DBA BONJOUR FOOD STORE**

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

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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 VIOLATIONS OCCURRED:** 4400 Yale Street in 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 February 15, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**  
**TCEQ Attorney:** Mr. Gary K. Shiu, Litigation Division, MC R-12, (713) 422-8916  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  
**TCEQ Enforcement Coordinator:** Ms. Elvia Maske, Waste Enforcement Section, MC 149, (512) 239-0789  
**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623  
**Respondent:** Mr. Benhmim Abderrahman, President, Wajed Ent. Inc., P.O. Box 631381, Houston, Texas 77263  
**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> January 26, 2009</p> <p><b>Date of NOE Relating to this Case:</b> February 10, 2009</p> <p><b>Background Facts:</b> The EDRP was filed on July 15, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on October 21, 2009.</p> <p><b>Current Compliance Status:</b> No outstanding Technical Requirements. The Respondent's delivery certificate expired in January 2010.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to provide release detection for the piping associated with the UST system, and failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2) and (b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</li> <li>Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3) and Tex. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> </ol>	<p><b>Total Assessed:</b> \$10,729</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$404/\$10,325</p> <p>The Respondent paid \$404 of the administrative penalty. The remaining amount of \$10,325 shall be payable in 35 monthly payments of \$295 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that on January 27, 2009, Respondent implemented the following corrective measures at the Station:</p> <ol style="list-style-type: none"> <li>Conducted the annual piping tightness testing with passing results and successfully tested the line leak detectors for performance and operational reliability;</li> <li>Repaired the vacuum motor; and</li> <li>Conducted the Stage II annual compliance testing with passing results.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	23-Feb-2009			
	<b>PCW</b>	2-Jun-2009	<b>Screening</b>	24-Feb-2009	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	Wajed Ent. Inc. dba Bonjour Food Store				
<b>Reg. Ent. Ref. No.</b>	RN102474939				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	37245	<b>No. of Violations</b>	3		
<b>Docket No.</b>	2009-0308-PST-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No		
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Elvia Maske		
		<b>EC's Team</b>	Enforcement Team 6		
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
---	-------------------	----------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	5.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$625
---------------------------	------------------	--------------------------------	-------

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

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$3,125
--	-------------------	---------

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts	\$729
Approx. Cost of Compliance	\$815

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$10,000
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	7.3%	<b>Adjustment</b>	\$729
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 3.

**Final Penalty Amount** \$10,729

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$10,729
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$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.

<b>PAYABLE PENALTY</b>	\$10,729
------------------------	----------

**Screening Date** 24-Feb-2009      **Docket No.** 2009-0308-PST-E  
**Respondent** Wajed Ent. Inc. dba Bonjour Food Store  
**Case ID No.** 37245  
**Reg. Ent. Reference No.** RN102474939  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Elvia Maske

**PCW**

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 5%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

**Screening Date** 24-Feb-2009 **Docket No.** 2009-0308-PST-E **PCW**  
**Respondent** Wajed Ent. Inc. dba Bonjour Food Store *Policy Revision 2 (September 2002)*  
**Case ID No.** 37245 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102474939  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Elvia Maske

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(2), (b)(2)(A)(i)(III), and Tex. Water Code § 26.3475(a)  
**Violation Description** Failed to provide release detection for the piping associated with the UST system. Specifically, the Respondent did not conduct the annual piping tightness test. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.

**Base Penalty** \$10,000

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

OR	<b>Harm</b>				
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>		<b>Minor</b>
	Actual				
	Potential	x			
				<b>Percent</b> 50%	

**>> Programmatic Matrix**

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
					<b>Percent</b> 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** \$5,000

\$5,000

**Violation Events**

Number of Violation Events 1 365 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

**Violation Base Penalty** \$5,000

One annual event is recommended for the 12-month period preceeding the January 26, 2009 investigation.

**Good Faith Efforts to Comply** 25.0% Reduction Before NOV NOV to EUP/PP/ Settlement Offer \$1,250

Extraordinary		
Ordinary	x	
N/A		(mark with x)

**Notes** The Respondent achieved compliance on January 27, 2009.

**Violation Subtotal** \$3,750

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

**Estimated EB Amount** \$345 **Violation Final Penalty Total** \$4,292

**This violation Final Assessed Penalty (adjusted for limits)** \$4,292

## Economic Benefit Worksheet

**Respondent** Wajed Ent. Inc. dba Bonjour Food Store

**Case ID No.** 37245

**Reg. Ent. Reference No.** RN102474939

**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)				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]	\$315	26-Jan-2008	27-Jan-2009	1.92	\$30	\$315	\$345
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost to conduct the piping tightness and line leak detector tests per receipt submitted by the Respondent. The date required is one year prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance \$315

**TOTAL** \$345

**Screening Date** 24-Feb-2009 **Docket No.** 2009-0308-PST-E **PCW**  
**Respondent** Wajed Ent. Inc. dba Bonjour Food Store *Policy Revision 2 (September 2002)*  
**Case ID No.** 37245 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102474939  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Elvia Maske

**Violation Number** 2  
**Rule Cite(s)** 30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the vacuum motor was not vapor-tight and vapor was leaking.

**Base Penalty** \$10,000

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

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

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					0%

**Matrix Notes** Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$7,500  
\$2,500

**Violation Events**

Number of Violation Events 1 1 Number of violation days  
 mark only one with an x  
 daily  
 weekly  
 monthly  
 quarterly x  
 semiannual  
 annual  
 single event

**Violation Base Penalty** \$2,500

One quarterly event is recommended from the January 26, 2009 investigation date to the January 27, 2009 compliance date.

**Good Faith Efforts to Comply** 25.0% Reduction \$625

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

**Notes** The Respondent achieved compliance on January 27, 2009.

**Violation Subtotal** \$1,875

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

**Estimated EB Amount** \$0 **Violation Final Penalty Total** \$2,146

**This violation Final Assessed Penalty (adjusted for limits)** \$2,146

## Economic Benefit Worksheet

**Respondent** Wajed Ent. Inc. dba Bonjour Food Store

**Case ID No.** 37245

**Reg. Ent. Reference No.** RN102474939

**Media** Petroleum Storage Tank

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$150	26-Jan-2009	27-Jan-2009	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to repair defective Stage II vapor vacuum motor and retest the system, per receipt submitted by the Respondent. The date required is the date of the investigation and the final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$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 \$150

**TOTAL** \$0

**Screening Date** 24-Feb-2009 **Docket No.** 2009-0308-PST-E **PCW**  
**Respondent** Wajed Ent. Inc. dba Bonjour Food Store *Policy Revision 2 (September 2002)*  
**Case ID No.** 37245 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102474939  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Elvia Maske

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual compliance testing had not been conducted.

**Base Penalty** \$10,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					50%
Potential	x				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0%

**Matrix Notes** Human health or the environment 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** \$5,000

**Violation Events**

Number of Violation Events 1 365 Number of violation days

*mark only one with an x*

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$5,000

One single event is recommended for the 12-month period preceding the January 26, 2009 investigation.

**Good Faith Efforts to Comply** 25.0% Reduction \$1,250

	25.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

**Notes** The Respondent achieved compliance on January 27, 2009.

**Violation Subtotal** \$3,750

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

**Estimated EB Amount** \$384 **Violation Final Penalty Total** \$4,292

**This violation Final Assessed Penalty (adjusted for limits)** \$4,292

## Economic Benefit Worksheet

**Respondent** Wajed Ent. Inc. dba Bonjour Food Store

**Case ID No.** 37245

**Reg. Ent. Reference No.** RN102474939

**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)				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	26-Jan-2008	27-Jan-2009	1.92	\$34	\$350	\$384
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost to conduct the required Stage II testing, per receipt submitted by the Respondent. The date required is one year prior to the investigation and the final date is the date of compliance.

Approx. Cost of Compliance \$350

**TOTAL** \$384

# Compliance History Report

Customer/Respondent/Owner-Operator: CN601274293 Wajed Ent. Inc. Classification: AVERAGE Rating: 1.50  
Regulated Entity: RN102474939 Bonjour Food Store Classification: AVERAGE Site Rating: 1.50  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 71293  
REGISTRATION  
Location: 4400 YALE ST, HOUSTON, TX, 77018  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: February 23, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 23, 2004 to February 23, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Elvia Maske Phone: (512) 239 - 0789

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
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.)
- |   |            |          |
|---|------------|----------|
| 1 | 05/23/2005 | (381231) |
| 2 | 11/26/2006 | (518747) |
| 3 | 11/26/2006 | (531543) |
| 4 | 02/10/2009 | (726073) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |  |          |                          |
|--------------|--|----------|--------------------------|
| Date:        | 05/23/2005   | (381231) | CN601274293              |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.245(2)  |          |                          |
| Description: | FAILURE TO VERIFY PROPER OPERATION OF THE STAGE II EQUIPMENT AT LEAST ONCE EVERY TWELVE MONTHS.    |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(A)   |          |                          |
| Description: | FAILURE TO MAINTAIN THE STAGE II VAPOR RECOVERY SYSTEM IN PROPER OPERATING CONDITION AS SPECIFIED. |          |                          |
- 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



<b>IN THE MATTER OF AN</b>	§	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	§	
<b>CONCERNING WAJED ENT. INC.</b>	§	<b>TEXAS COMMISSION ON</b>
<b>DBA BONJOUR FOOD STORE,</b>	§	
<b>RN102474939</b>	§	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER**  
**DOCKET NO. 2009-0308-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding Wajed Ent. Inc. dba Bonjour Food Store (the “Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, appear before the Commission and together stipulate that:

1. Respondent owns and operates a convenience store with retail sales of gasoline at 4400 Yale Street in Houston, Harris County, Texas (the “Station”). Respondent’s two underground storage tanks (“USTs”) are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Respondent’s USTs contain a regulated petroleum 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).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382, TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. Respondent received notice of the violations alleged in Section II (“Allegations”) on or about February 15, 2009.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
6. An administrative penalty in the amount of ten thousand seven hundred twenty-nine dollars (\$10,729.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). Respondent paid four hundred and four dollars (\$404.00) of the administrative penalty. The remaining amount of ten thousand three hundred twenty-five dollars (\$10,325.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred ninety-five dollars (\$295.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent’s failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Respondent agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on January 27, 2009, Respondent implemented the following corrective measures at the Station:
  - a. Conducted the annual piping tightness testing with passing results and successfully tested the line leak detectors for performance and operational reliability;
  - b. Repaired the vacuum motor; and
  - c. Conducted the Stage II annual compliance testing with passing results.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

1. During an investigation conducted on January 26, 2009, a TCEQ Houston Regional Office investigator documented that Respondent violated:
  - a. 30 TEX. ADMIN. CODE §§ 334.50(b)(2) and 334.50(b)(2)(A)(i)(III), and TEX. WATER CODE § 26.3475(a) by failing to provide release detection for the piping associated with the UST system and by failing to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the Respondent did not conduct the annual piping tightness test;
  - b. 30 TEX. ADMIN. CODE § 115.242(3) and Tex. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the vacuum motor was not vapor-tight and vapor was leaking; and
  - c. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual compliance testing had not been conducted.

## **III. DENIALS**

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

## **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any

manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Wajed Ent. Inc. dba Bonjour Food Store, Docket No. 2009-0308-PST-E" to:

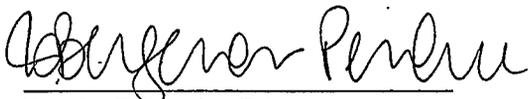
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

1/19/2010

\_\_\_\_\_  
Date

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

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

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

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



\_\_\_\_\_  
Signature

10/21/2009

\_\_\_\_\_  
Date

Benhmim Abderrahman  
Name (Printed or typed)  
Authorized representative of  
Wajed Ent. Inc. dba Bonjour Food Store

President of Wajed Ent. Inc.  
Title