

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1229-PST-E TCEQ ID: RN100884709 CASE NO.: 38074

RESPONDENT NAME: Kathy Luu dba A Nam Gas

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: A Nam Gas, 7717 Bissonnet Street, Houston, Harris County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 1, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-4492; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Ms. Kathy Luu, Owner, A Nam Gas, 7717 Bissonnet Street, Houston, Texas 77074 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

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(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 3, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 14, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>Failure to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,149</p> <p>Total Deferred: \$630 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$229 (remaining \$2,290 due in 10 monthly payments of \$229 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent successfully conducted the required annual testing of the Stage II equipment on July 16, 2009.</p>

Additional ID No(s): 40177



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ DATES	Assigned PCW	20-Jul-2009	Screening	31-Jul-2009	EPA Due	
		27-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Kathy Luu dba A Nam Gas
Reg. Ent. Ref. No.	RN100884709
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38074	No. of Violations	1
Docket No.	2009-1229-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Meyer
		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	\$2,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	10.0% Enhancement	Subtotals 2, 3, & 7 \$250
Notes	Enhancement for two NOVs with same or similar violations.	
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 \$250
Economic Benefit	0.0% Enhancement <small>*Capped at the Total EB \$ Amount</small>	Subtotal 6 \$0
Total EB Amounts	\$649	
Approx. Cost of Compliance	\$591	
SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,500
OTHER FACTORS AS JUSTICE MAY REQUIRE	26.0%	Adjustment \$649
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes	Recommended enhancement to capture the avoided cost of compliance associated with the violation.	
	Final Penalty Amount	\$3,149
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$3,149
DEFERRAL	20.0% Reduction	Adjustment \$630
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$2,519

Screening Date 31-Jul-2009

Docket No. 2009-1229-PST-E

PCW

Respondent Kathy Luu dba A Nam Gas

Policy Revision 2 (September 2002)

Case ID No. 38074

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100884709

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michael Meyer

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)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 10%

>> 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 two NOVs with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 31-Jul-2009 **Docket No.** 2009-1229-PST-E **PCW**

Respondent Kathy Luu dba A Nam Gas *Policy Revision 2 (September 2002)*

Case ID No. 38074 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN100884709

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michael Meyer

Violation Number 1

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 testing had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	x			

>> 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.

16-Jul-09 **Adjustment** \$7,500

\$2,500

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 \$2,500

One annual event is recommended for the 12-month period preceding the July 3, 2009 investigation.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes: The Respondent came into compliance on July 16, 2009.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$649

Violation Final Penalty Total \$3,149

This violation Final Assessed Penalty (adjusted for limits) \$3,149

Economic Benefit Worksheet

Respondent Kathy Luu dba A Nam Gas
Case ID No. 38074
Reg. Ent. Reference No. RN100884709
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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]	\$591	3-Jul-2008	16-Jul-2009	1.95	\$58	\$591	\$649
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost for annual testing to verify proper operation of the Stage II equipment per invoice submitted. The Date Required is one year prior to the investigation and the Final Date is the compliance date.

Approx. Cost of Compliance

\$591

TOTAL

\$649

Compliance History Report

Customer/Respondent/Owner-Operator: CN603079708 LUU, KATHY Classification: AVERAGE Rating: 7.00
Regulated Entity: RN100884709 A NAM GAS Classification: AVERAGE Site Rating: 7.00
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG9071W
PETROLEUM STORAGE TANK REGISTRATION 40177
REGISTRATION
Location: 7717 BISSONNET ST, HOUSTON, TX, 77074
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: August 10, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 10, 2004 to August 10, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Michael Meyer Phone: 239 - 4492

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? LUU, KATHY
4. If Yes, who was/were the prior owner(s)/operator(s) ? TAM, THIEN NGUYEN
5. When did the change(s) in owner or operator occur? 06/23/2006
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	06/28/2006	(482227)
2	08/22/2006	(497223)
3	08/24/2006	(509846)
4	10/06/2006	(514350)
5	12/09/2006	(532876)
6	07/14/2009	(761385)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/28/2006 (482227) CN603079708

Self NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: 30 Tex. Admin. Code Section 115.246 (7)(A) - Failure to maintain records on-site and make immediately available for review upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction at sites ordinarily manned during business hours.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Tex. Admin. Code Section 115.244 (1) - Failure to conduct daily inspections of the Stage vapor recovery system for the defects specified in §115.242(3)(A) - (F), (H), and (K).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Tex. Admin. Code Section 115.244 (3) - Failure to conduct monthly inspections of the components listed in §115.242(3)(J) of this title.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)

Description: 30 Tex. Admin. Code Section 115.248(1)- Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage 11 vapor recovery system by successfully completing a training course approved by the executive director. Successful completion shall constitute c

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)

Description: 30 Tex. Admin. Code Section 115.246(3)- Failure to maintain a record of any maintenance conducted on any part of the Stage II equipment, including a general part description, the date and time the equipment was taken out of service, the date of repair or replacement, the replacement part manufacturer's information, a g

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

Description: 30 Tex. Admin Code Section 115.246 (1)- Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system and any related components installed at the facility.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

Description: Tex. Admin. Code Section 115.245 (2)- Failure to verify proper operation of the Stage II equipment at least once every twelve months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TX

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(C)(I)

Description: 30 Tex. Admin. Code 115.242 (3)(C) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s) and free of defects that would impair the effectiveness of the system, including a nozzle boot that is damaged in one

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

Description: 30 Tex. Admin. Code Section 115.242 (3) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.

Date: 08/24/2006 (509846) CN603079708

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

Description: 30 Tex. Admin. Code Section 115.246 (7)(A) - Failure to maintain records on-site and make immediately available for review upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction at sites ordinarily manned during business hours

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(1)

Description: Tex. Admin. Code Section 115.244 (1) - Failure to conduct daily inspections of the Stage vapor recovery system for the defects specified in §115.242(3)(A) - (F), (H), and (K).

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)

Description: Tex. Admin. Code Section 115.244 (3) - Failure to conduct monthly inspections of the components listed in §115.242(3)(J) of this title.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)

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Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)(C)(i)
30 TAC Chapter 115, SubChapter C 115.242(3)(C)(ii)
30 TAC Chapter 115, SubChapter C 115.242(3)(C)(iii)

Description: 30 Tex. Admin. Code 115.242 (3)(C) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s) and free of defects that would impair the effectiveness of the system, including a nozzle boot that is damaged in one

Self Report? NO Classification: Moderate

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

Description: 30 Tex. Admin. Code Section 115.242 (3) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system.

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
KATHY LUU DBA A NAM GAS
RN100884709

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1229-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Kathy Lau dba A Nam Gas ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 7717 Bissonnet Street in Houston, Harris County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 19, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand One Hundred Forty-Nine Dollars (\$3,149) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Hundred Twenty-Nine Dollars (\$229) of the administrative penalty and Six Hundred Thirty Dollars (\$630) is deferred contingent upon the

Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Two Hundred Ninety Dollars (\$2,290) of the administrative penalty shall be payable in 10 monthly payments of Two Hundred Twenty-Nine Dollars (\$229) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payment shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all 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 the Respondent have 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 the Respondent successfully conducted the required annual testing of the Stage II equipment on July 16, 2009.
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 the 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

As owner and operator of the Station, the Respondent is alleged to have failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on July 3, 2009. Specifically, the Stage II annual testing had not been conducted.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the 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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Kathy Luu dba A Nam Gas, Docket No. 2009-1229-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 the Respondent. The 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. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize the delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order, or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the 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.
6. 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

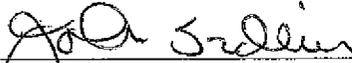
by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the 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
~~11-23-09~~

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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



Signature

11-23-09

Date

Kathy Luu

Name (Printed or typed)
Authorized Representative of
Kathy Luu dba A Nam Gas

owner

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

