

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-0098-PST-E TCEQ ID RN103046363 CASE NO. 37054
RESPONDENT NAME: MOHAMMED DINAJ KHAN DBA SHORT STOP

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

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

SITE WHERE VIOLATION(S) OCCURRED: 4345 US Highway 96 North, Silsbee, Hardin 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 May 31, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Kari L. Gilbreth, Litigation Division, MC 175, (512) 239-1320
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Ms. Elvia Maske, Waste Enforcement Section, MC 128, (512) 239-0789

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

Respondent: Mr. Mohammed Dinaj Khan, 1660 Northwest 3rd Street, Deerfield Beach, Florida 33442

Respondent's Attorney: Mr. William W. Thompson, III, Grissom & Thompson, L.L.C., 609 West 10th Street, Austin, Texas 78701

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 3, 2008</p> <p>Date of NOE Relating to this Case: January 9, 2009</p> <p>Background Facts: The EDPRP was filed on May 11, 2009. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on April 12, 2010.</p> <p>Current Compliance Status: Respondent has not yet submitted documentation to certify compliance. Respondent's delivery certificate expired February 28, 2010.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems [30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 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 ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 	<p>Total Assessed: \$21,426</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$776/\$20,650</p> <p>Respondent paid \$776 of the administrative penalty. The remaining amount of \$20,650 shall be payable in 35 monthly payments of \$590 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" 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>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Begin maintaining all Stage II records at the Station; Conduct the required annual and triennial testing of the Stage II equipment; Upgrade the Stage II equipment to ORVR compatible systems and conduct successful Stage II vapor recovery tests after completing the ORVR upgrade; Begin maintaining the Stage II vapor recovery system in proper operating condition, including, but not limited to, installing swivel adapters on the dry breaks and fill ports; Begin maintaining all UST records at the Station; 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; Permanently apply or affix legible tags, labels, or markings to either the top of the UST fill tubes or to a non-removable point in the immediate area of the fill tubes with an identification number that matches the number listed on the UST registration and self-certification form; and Secure all emergency shutoff valves at the base of the dispensers. Within 45 days, submit an amended registration to reflect the correct ownership and operator information for the USTs. Within 60 days, submit written certification demonstrating compliance with Ordering Provisions Nos. 1.a. through 1.h. and 2.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>5. 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> <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 the petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>7. Failed to ensure that a legible tag, label, or marking with the UST identification number listed on the UST registration and self-certification form 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 [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>8. Failed to ensure that the emergency shutoff valves (also known as shear valves or impact valves) were securely anchored at the base of the dispensers. [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p> <p>9. Failed to notify the agency of any change or addition to the UST system within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Jan-2009			
	PCW	7-Apr-2009	Screening	20-Jan-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	Mohammed Dinaj Khan dba Short Stop				
Reg. Ent. Ref. No.	RN103046363				
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37054	No. of Violations	8		
Docket No.	2009-0098-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Steven Lopez		
		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	\$12,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	40.0% Enhancement	Subtotals 2, 3, & 7	\$5,000
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Notes: Enhancement for one Default Order, one previous NOV with same or similar violations, and poor performer classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$4,146
 Approx. Cost of Compliance \$7,550
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$17,500
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OTHER FACTORS AS JUSTICE MAY REQUIRE	22.4%	Adjustment	\$3,926
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 2 and 5.

Final Penalty Amount \$21,426

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,426
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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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	\$21,426
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Screening Date 20-Jan-2009

Docket No. 2009-0098-PST-E

PCW

Respondent Mohammed Dinaj Khan dba Short Stop

Policy Revision 2 (September 2002)

Case ID No. 37054

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103046363

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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	1	25%
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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 30%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

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

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> **Compliance History Summary**

Compliance History Notes Enhancement for one Default Order, one previous NOV with same or similar violations, and poor performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 20-Jan-2009 **Docket No.** 2009-0098-PST-E **PCW**
Respondent Mohammed Dinaj Khan dba Short Stop *Policy Revision 2 (September 2002)*
Case ID No. 37054 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103046363
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	x	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

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	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	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 Mohammed Dinaj Khan dba Short Stop
Case ID No. 37054
Reg. Ent. Reference No. RN103046363
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	\$500	3-Dec-2008	20-Oct-2009	0.88	\$22	n/a	\$22
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 Stage II records at the Station. The Date Required is the record review date. The Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$22

Screening Date 20-Jan-2009 **Docket No.** 2009-0098-PST-E **PCW**
Respondent Mohammed Dinaj Khan dba Short Stop *Policy Revision 2 (September 2002)*
Case ID No. 37054 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103046363
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 2

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 and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual			
	Potential	x		Percent 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

Number of Violation Events 1 1095 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended for the three-year period preceding the December 3, 2008 record review.

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 \$1,196 **Violation Final Penalty Total** \$4,285

This violation Final Assessed Penalty (adjusted for limits) \$4,285

Economic Benefit Worksheet

Respondent Mohammed Dinaj Khan dba Short Stop
Case ID No. 37054
Reg. Ent. Reference No. RN103046363
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)				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]	\$1,000	3-Dec-2005	3-Dec-2008	3.92	\$196	\$1,000	\$1,196
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for annual and triennial testing of the Stage II equipment. The Date Required is three years prior to the record review date. The Final Date is the record review date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,196

Screening Date 20-Jan-2009 **Docket No.** 2009-0098-PST-E **PCW**
Respondent Mohammed Dinaj Khan dba Short Stop *Policy Revision 2 (September 2002)*
Case ID No. 37054 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103046363
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 115.242(1)(C) and (3)(A) and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems. 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 swivel adapters were not installed on the dry break or the fill ports.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential	x		10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 48 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the record review date of December 3, 2008 to the screening date of January 20, 2009.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

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

Estimated EB Amount \$163 **Violation Final Penalty Total** \$1,714

This violation Final Assessed Penalty (adjusted for limits) \$1,714

Economic Benefit Worksheet

Respondent Mohammed Dinaj Khan dba Short Stop
Case ID No. 37054
Reg. Ent. Reference No. RN103046363
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$2,500	3-Dec-2008	20-Oct-2009	0.88	\$7	\$147	\$154
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$150	3-Dec-2008	20-Oct-2009	0.88	\$0	\$9	\$9
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

Estimated cost to upgrade the Stage II equipment to ORVR compatible systems (\$2,500) and to install swivel adapters (\$150). The Date Required is the record review date. The Final Date is the estimated date of compliance.

Avoided Costs

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

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

\$2,650

TOTAL

\$163

Screening Date 20-Jan-2009 **Docket No.** 2009-0098-PST-E **PCW**
Respondent Mohammed Dinaj Khan dba Short Stop *Policy Revision 2 (September 2002)*
Case ID No. 37054 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103046363
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)
Violation Description Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

OR	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 48 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on the documentation of the violation during the December 3, 2008 record review 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 \$22 **Violation Final Penalty Total** \$1,714

This violation Final Assessed Penalty (adjusted for limits) \$1,714

Economic Benefit Worksheet

Respondent Mohammed Dinaj Khan dba Short Stop
Case ID No. 37054
Reg. Ent. Reference No. RN103046363
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	\$500	3-Dec-2008	20-Oct-2009	0.88	\$22	n/a	\$22
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 record review date. The Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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

\$22

Screening Date 20-Jan-2009 **Docket No.** 2009-0098-PST-E **PCW**
Respondent Mohammed Dinaj Khan dba Short Stop *Policy Revision 2 (September 2002)*
Case ID No. 37054 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103046363
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

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 the petroleum USTs.

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 4 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$4,000

Four single events (one per tank) are recommended based on documentation of the violation during the December 3, 2008 record review.

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 \$4,000

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

Estimated EB Amount \$2,730 **Violation Final Penalty Total** \$6,856

This violation Final Assessed Penalty (adjusted for limits) \$6,856

Economic Benefit Worksheet

Respondent Mohammed Dinaj Khan dba Short Stop
Case ID No. 37054
Reg. Ent. Reference No. RN103046363
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]	\$2,600	3-Dec-2007	3-Dec-2008	1.00	\$130	\$2,600	\$2,730
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 four USTs (\$650 per tank). The Date Required is one year prior to the record review date. The Final Date is the record review date.

Approx. Cost of Compliance \$2,600

TOTAL \$2,730

Screening Date 20-Jan-2009 **Docket No.** 2009-0098-PST-E **PCW**
Respondent Mohammed Dinaj Khan dba Short Stop *Policy Revision 2 (September 2002)*
Case ID No. 37054 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103046363
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)
Violation Description 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 according to the UST registration and self-certification form.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	Potential	Potential	
				0%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification	x			
				10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 48

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on the documentation of the violation during the December 3, 2008 record review 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 \$4 **Violation Final Penalty Total** \$1,714

This violation Final Assessed Penalty (adjusted for limits) \$1,714

Economic Benefit Worksheet

Respondent Mohammed Dinaj Khan dba Short Stop
Case ID No. 37054
Reg. Ent. Reference No. RN103046363
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)	\$100	3-Dec-2008	20-Oct-2009	0.88	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to label the tank fill ports. The Date Required is the record review date. The Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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 20-Jan-2009 **Docket No.** 2009-0098-PST-E **PCW**
Respondent Mohammed Dinaj Khan dba Short Stop *Policy Revision 2 (September 2002)*
Case ID No. 37054 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103046363
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	x	<input type="text"/>	Percent <input type="text" value="10%"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes

Adjustment

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	x
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

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	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 Mohammed Dinaj Khan dba Short Stop
Case ID No. 37054
Reg. Ent. Reference No. RN103046363
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				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	3-Dec-2008	20-Oct-2009	0.88	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to properly secure emergency shutoff valves. The Date Required is the record review date. The Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$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 20-Jan-2009 **Docket No.** 2009-0098-PST-E **PCW**
Respondent Mohammed Dinaj Khan dba Short Stop *Policy Revision 2 (September 2002)*
Case ID No. 37054 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN103046363
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Steven Lopez

Violation Number 8

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description
 Failed to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition. Specifically, the registration was not updated to reflect the correct ownership and operator information.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential	Percent	
				0%

>> Programmatic Matrix

	Major	Moderate	Minor	
Falsification	x			
				Percent 10%

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

Adjustment \$9,000

\$1,000

Violation Events

1 48 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on the documentation of the violation during the December 3, 2008 record review 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 \$4 **Violation Final Penalty Total** \$1,714

This violation Final Assessed Penalty (adjusted for limits) \$1,714

Economic Benefit Worksheet

Respondent Mohammed Dinaj Khan dba Short Stop
Case ID No. 37054
Reg. Ent. Reference No. RN103046363
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)	\$100	3-Dec-2008	20-Oct-2009	0.88	\$4	n/a	\$4

Notes for DELAYED costs

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

Avoided Costs

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

Disposal				0.00	\$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

Compliance History Report

Customer/Respondent/Owner-Operator: CN603420530 KHAN, MOHAMMED DINAJ Classification: POOR Rating: 51.40
Regulated Entity: RN103046363 SHORT STOP Classification: POOR Site Rating: 51.40
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 23988
Location: 4345 US HIGHWAY 96 N, SILSBEE, TX, 77656
TCEQ Region: REGION 10 – BEAUMONT
Date Compliance History Prepared: January 22, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 22, 2004 to January 22, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Steven Lopez Phone: 512-239-1896

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? KHAN, MOHAMMED DINAJ
4. If Yes, who was/were the prior owner(s)? KSO INC
5. When did the change(s) in ownership occur? 01/27/2006
6. Rating Date: 9/1/2008 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.

Effective Date: 04/13/2007

ADMINORDER 2005-0505-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failed to have an operable emergency shut-off valve (shear valve) which includes a means of providing a positive shut-off of product in the event of collision involving a dispenser.

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)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to ensure that nozzle boots are not torn or damaged in a way that could reduce the efficiency of the vapor recovery system.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to maintain and produce all current Stage II records.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to ensure that each current and future employee(s) are made aware of the purpose and correct operation of the Stage II equipment.

- 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	11/10/2004	(334954)
2	02/03/2005	(345585)
3	06/29/2007	(566121)
4	07/16/2008	(685502)
5	01/09/2009	(706901)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/10/2004 (334954)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.45(c)(3)(A)

Description: Failed to have an operable emergency shut-off valve (shear valve) which includes a means of providing a positive shut-off of product in the event of collision involving a dispenser.

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) 5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failed to ensure that nozzle boots are not torn or damaged in a way that could reduce the efficiency of the vapor recovery system.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(7)(A) 5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failed to maintain and produce all current Stage II records.		

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
MOHAMMED DINAJ KHAN DBA
SHORT STOP;
RN103046363**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-0098-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 Mohammed Dinaj Khan dba Short Stop (“Mr. Khan”) 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 Mr. Khan, represented by William W. Thompson, III, of the law firm of Grissom & Thompson, L.L.C., appear before the Commission and together stipulate that:

1. Mr. Khan owns four underground storage tanks (“USTs”) and a convenience store with retail sales of gasoline located at 4345 US Highway 96 North, Silsbee, Hardin County, Texas (the “Station”). Mr. Khan’s USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and the TCEQ rules.
3. The Commission and Mr. Khan agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Khan is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Khan of any violation alleged in Section II (“Allegations”), nor of any statute or rule.

5. An administrative penalty in the amount of twenty-one thousand four hundred twenty-six dollars (\$21,426.00) is assessed by the Commission in settlement of the violations alleged in Section II. Mr. Khan paid seven hundred seventy-six dollars (\$776.00) of the administrative penalty. The remaining amount of twenty thousand six hundred fifty dollars (\$20,650.00) of the administrative penalty shall be payable in 35 monthly payments of five hundred ninety dollars (\$590.00) 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 Mr. Khan 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, Mr. Khan's failure to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Khan to timely and satisfactorily comply with all of the terms of this Agreed Order.
6. 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.
7. The Executive Director of the TCEQ and Mr. Khan agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Khan has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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 a record review conducted on December 3, 2008, a TCEQ Beaumont Regional Office investigator documented that Mr. Khan violated:
 - a. 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel.

- b. 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 and the Stage II vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, Stage II annual and triennial compliance testing had not been conducted.
- c. 30 TEX. ADMIN. CODE § 115.242(1)(C) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to upgrade the Stage II equipment to onboard refueling vapor recovery ("ORVR") compatible systems.
- d. 30 TEX. ADMIN. CODE § 115.242(3)(A) 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 ("CARB") Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the swivel adapters were not installed on the dry breaks or the fill ports.
- e. 30 TEX. ADMIN. CODE § 334.10(b) by failing to maintain the required UST records at the Station and make them immediately available for inspection upon request by agency personnel.
- f. 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 the petroleum USTs.
- g. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the identification number listed on the UST registration and self-certification form is permanently applied upon or affixed together the top of the fill tube or to a non-removable point in the immediate area of the fill tube.
- h. 30 TEX. ADMIN. CODE § 334.45(c)(3)(A) by failing to ensure that the emergency shutoff valves (also known as shear valves or impact valves) were securely anchored at the base of the dispensers. Specifically, the valves for dispenser number 4 were not secured.
- i. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to notify the agency of any change or addition to the UST system within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition. Specifically, the registration was not updated to reflect the correct ownership and operator information.

2. Mr. Khan received notice of the violations on or about January 14, 2009.

III. DENIALS

Mr. Khan generally denies each allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Khan pay an administrative penalty as set forth in Section I, Paragraph 5, above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Mr. Khan'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: Mohammed Dinaj Khan dba Short Stop, Docket No. 2009-0098-PST-E" to:

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

2. Mr. Khan shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Mr. Khan shall:
 - i. Begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246;
 - ii. Conduct the required annual and triennial testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245;
 - iii. Upgrade the Stage II equipment to ORVR compatible systems and conduct successful Stage II vapor recovery tests after completing the ORVR upgrade, in accordance with 30 TEX. ADMIN. CODE § 115.242;
 - iv. Begin maintaining the Stage II vapor recovery system in proper operating condition including, but not limited to, installing swivel adapters on the dry breaks and fill ports, in accordance with 30 TEX. ADMIN. CODE § 115.242;

- v. Begin maintaining all UST records at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.10;
 - vi. 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;
 - vii. Permanently apply or affix legible tags, labels, or markings to either the top of the UST fill tubes or to a non-removable point in the immediate area of the fill tubes 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; and
 - viii. Secure all emergency shutoff valves at the base of the dispensers, in accordance with 30 TEX. ADMIN. CODE § 334.45.
- b. Within 45 days after the effective date of this Agreed Order, Mr. Khan shall submit an amended registration to reflect the correct ownership and operator information for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7, to:

Registration and Reporting Section
Permitting & Remediation Support Division, MC 138
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, Mr. Khan shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.viii., and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

Mr. Khan shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.a.viii., and 2.b. to:

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

and:

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

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Khan. Mr. Khan 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.
4. If Mr. Khan fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Khan's failure to comply is not a violation of this Agreed Order. Mr. Khan shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Khan shall notify the Executive Director within seven days after Mr. Khan becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Khan shall be made in writing to the Executive Director. Extensions are not effective until Mr. Khan receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Khan in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This 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.

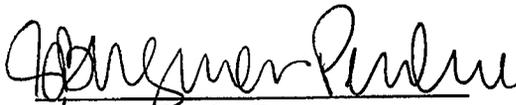
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Agreed Order to Mr. Khan, or three days after the date on which the Commission mails notice of this Agreed Order to Mr. Khan, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Mohammed Dinaj Khan dba Short Stop
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/25/2010

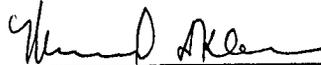
Date

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

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



Signature

04/12/10

Date

MOHAMMED D. KHAN

Name (Printed or typed)

President

Title

Authorized representative of
Mohammed Dinaj Khan
dba Short Stop