

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1919-PST-E **TCEQ ID:** RN100923580 **CASE NO.:** 38808

RESPONDENT NAME: ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart

| | | |
|---|--|--|
| 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 |

SITE WHERE VIOLATION(S) OCCURRED: Ella Quick Mart, 1811 West Mount Houston Road, Houston, Harris County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on June 21, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. John Shelton, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2563;
 Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: Ms. Noorjahan Maknojia, Registered Agent, ZENU & NILU ENTERPRISE INC., 1811 West Mount Houston Road,
 Houston, Texas 77038
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|--|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 17, 2009</p> <p>Date of NOE Relating to this Case: November 4, 2009</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure 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, swivel adaptors were not installed [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to verify proper operation of Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Respondent did not conduct the triennial test by the due date of August 2, 2009 [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$3,315</p> <p>Total Deferred: \$663 <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: \$152 (remaining \$2,500 due in 25 monthly payments of \$100 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 triennial Stage II testing was successfully conducted on September 17, 2009.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, begin maintaining the Stage II vapor recovery system in proper operating condition, including but not limited to installing swivel adaptors;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p> |

Additional ID No(s): 0



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | |
|--------------|------------------|-------------|-----------|
| DATES | Assigned | 23-Nov-2009 | AT |
| | PCW | 24-Nov-2009 | |
| | Screening | 24-Nov-2009 | |
| | EPA Due | | |

| | | | |
|--|---|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart | | |
| Reg. Ent. Ref. No. | RN100923580 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

| | | | |
|--|------------------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 38808 | No. of Violations | 2 |
| Docket No. | 2009-1919-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | John Shelton |
| | | EC's Team | Enforcement Team 6 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit **Subtotal 6**

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

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 24-Nov-2009

Docket No. 2009-1919-PST-E

PCW

Respondent ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart

Policy Revision 2 (September 2002)

Case ID No. 38808

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100923580

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

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% |

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) 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-Nov-2009

Docket No. 2009-1919-PST-E

PGW

Respondent ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart

Policy Revision 2 (September 2002)

Case ID No. 38808

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100923580

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

Violation Number 1

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, swivel adaptors were not installed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | x | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

69 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | x |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the September 17, 2009 investigation to the November 24, 2009 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDRP/S 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 \$1,141

This violation Final Assessed Penalty (adjusted for limits) \$1,141

Economic Benefit Worksheet

Respondent ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart

Case ID No. 38808

Reg. Ent. Reference No. RN100923580

Media Petroleum Storage Tank

Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|-------|-------------|------------|------|-----|------|------|
| Equipment | \$300 | 17-Sep-2009 | 2-Oct-2010 | 1.04 | \$1 | \$21 | \$22 |
| 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

Estimated cost to install swivel adaptors. The Date Required is the investigation date and 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

\$300

TOTAL

\$22

Screening Date 24-Nov-2009

Docket No. 2009-1919-PST-E

PCW

Respondent ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart

Policy Revision 2 (September 2002)

Case ID No. 38808

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100923580

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

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 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 Respondent did not conduct the triennial test by the due date of August 2, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| 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.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 46

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 period preceding the September 17, 2009 investigation date.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent came into compliance on September 17, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$265

Violation Final Penalty Total \$2,174

This violation Final Assessed Penalty (adjusted for limits) \$2,174

Economic Benefit Worksheet

Respondent ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart
Case ID No. 38808
Reg. Ent. Reference No. RN100923580
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

Item Description: 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] | \$252 | 2-Aug-2009 | 17-Sep-2009 | 1.04 | \$13 | \$252 | \$265 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

The avoided cost to perform the required Stage II testing. The Date Required is the date the testing was due and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$252

TOTAL

\$265

Compliance History Report

Customer/Respondent/Owner-Operator: CN603540774 ZENU & NILU ENTERPRISE INC. Classification: AVERAGE Rating:3.00
Regulated Entity: RN100923580 ELLA QUICK MART Classification: AVERAGE Site Rating:3.00
ID Number(s): AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG90411
PETROLEUM STORAGE TANK REGISTRATION 66023
REGISTRATION
Location: 1811 W MOUNT HOUSTON RD, HOUSTON, TX, 77038
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: January 06, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 05, 2005 to January 05, 2010

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

Name: John Shelton Phone: (512) 239-2563

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?
ZENU & NILU ENTERPRISE INC.
4. If Yes, who was/were the prior owner(s)/operator(s) ?
First Friendswood Enterprises Inc.
5. When did the change(s) in owner or operator occur?
07/01/2007
First Friendswood Enterprises Inc.
6. Rating Date: 9/1/2009 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 | 08/02/2007 | (570329) |
| 2 | 08/27/2007 | (572674) |
| 3 | 10/23/2009 | (777862) |
| 4 | 11/04/2009 | (776905) |

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

Date: 08/02/2007 (570329) **CN603540774**

Self NO Classification: Moderate
Report?

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

Description: At the time of the investigation, there was no Stage II trained facility representative for this facility.

Self NO Classification: Moderate
Report?

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

Description: At the time of the investigation swivel adaptors were absent on fill tubes and vapor recovery drybreaks.

Self Report? NO

Classification: Moderate

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

Description: At the time of the investigation there was no gasket on the dry break dust cap.

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
ZENU & NILU ENTERPRISE INC.
DBA ELLA QUICK MART
RN100923580**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1919-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 ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart ("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 1811 West Mount Houston Road 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 November 9, 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 Three Hundred Fifteen Dollars (\$3,315) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid One Hundred Fifty-Two Dollars (\$152) of the administrative penalty and Six Hundred Sixty-Three Dollars (\$663) 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 Five Hundred Dollars (\$2,500) of the administrative penalty shall be payable in 25 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments 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 triennial Stage II testing was successfully conducted on September 17, 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:

1. 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, in violation of 30 TEX. ADMIN.

CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 17, 2009. Specifically, swivel adaptors were not installed.

2. Failed to verify proper operation of 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, 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 September 17, 2009. Specifically, the Respondent did not conduct the triennial test by the due date of August 2, 2009.

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: ZENU & NILU ENTERPRISE INC. dba Ella Quick Mart, Docket No. 2009-1919-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, begin maintaining the Stage II vapor recovery system in proper operating condition, including but not limited to installing swivel adaptors, in accordance with 30 TEX. ADMIN. CODE § 115.242;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

3. 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.
4. 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 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 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 cause rests solely with the Executive Director.
6. 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.
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 under this Agreed Order.
8. 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

[Signature]
For the Executive Director

6/7/2010
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]
Signature

5/15/10
Date

Nicojahan J. Makhojia
Register Agent
Name (Printed or typed)
Authorized Representative of
ZENU & NIJU ENTERPRISE INC dba Ella Quick Mart

[Signature]
Register Agent
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.

