

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0953-PST-E **TCEQ ID:** RN101747632 **CASE NO.:** 39851
RESPONDENT NAME: AMAKANOJIYA, INC dba Walkers Food Store

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Walkers Food Store, 4417 Highway 146, Bacliff, Galveston County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 13, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-4492; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Altaf Makanojiya, President, AMAKANOJIYA, INC, 2100 Avenue J, Dickinson, Texas 77539 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: May 13, 2010</p> <p>Date of NOV/NOE Relating to this Case: May 19, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to verify proper operation of Stage II equipment at least once every 12 months. Specifically, the Respondent did not conduct the 2008 annual test by the May 30, 2008 due date [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, Stage II test results were not available for inspection [30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,415</p> <p>Total Deferred: \$683 <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: \$133 (remaining \$2,599 due in 23 monthly payments of \$113 each)</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <p>a. Successfully conducted the 2008 annual testing of the Stage II equipment on August 15, 2008; and</p> <p>b. Submitted the Stage II test results to the Galveston County Health District on May 14, 2010.</p>

Additional ID No(s): PST Registration 21258



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-May-2010			
	PCW	11-Jun-2010	Screening	9-Jun-2010	EPA Due

RESPONDENT/FACILITY INFORMATION			
Respondent	AMAKANOJIYA, INC dba Walkers Food Store		
Reg. Ent. Ref. No.	RN101747632		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39851	No. of Violations	2
Docket No.	2010-0953-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Michael Meyer
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1: **\$3,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 12.0% Enhancement Subtotals 2, 3, & 7: **\$420**

Notes: Enhancement for two NOV's with same or similar violations and one NOV with dissimilar violations.

Culpability No 0.0% Enhancement Subtotal 4: **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5: **\$875**

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

Total EB Amounts: \$370
Approx. Cost of Compliance: \$850
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal: **\$3,045**

OTHER FACTORS AS JUSTICE MAY REQUIRE 12.2% Adjustment: **\$370**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount: **\$3,415**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty: **\$3,415**

DEFERRAL 20.0% Reduction Adjustment: **-\$683**

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY: **\$2,732**

Screening Date: 9-Jun-2010

Docket No: 2010-0953-PST-E

PCW

Respondent: AMAKANOJIYA, INC dba Walkers Food Store

Policy Revision 2 (September 2002)

Case ID No. 39851

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101747632

Media [Statute] Petroleum Storage Tank

Enf. Coordinator: Michael Meyer

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 12%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same or similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date: 9-Jun-2010

Docket No.: 2010-0953-PST-E

PCW

Respondent: AMAKANOJIYA, INC dba Walkers Food Store

Policy Revision 2 (September 2002)

Case ID No.: 39851

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101747632

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Michael Meyer

Violation Number: 1

Rule Cite(s): 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description: Failed to verify proper operation of Stage II equipment at least once every 12 months. Specifically, the Respondent did not conduct the 2008 annual test by the May 30, 2008 due date.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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: 77

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

Violation Base Penalty: \$2,500

One annual event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes: The Respondent achieved compliance on August 15, 2008.

Violation Subtotal: \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$370

Violation Final Penalty Total: \$2,439

This violation Final Assessed Penalty (adjusted for limits): \$2,439

Economic Benefit Worksheet

Respondent: AMAKANOJIYA, INC dba Walkers Food Store

Case ID No: 39851

Reg. Ent. Reference No: RN101747632

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 compliance							

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$350	30-May-2008	15-Aug-2008	1.13	\$20	\$350	\$370
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost to conduct the required testing of the Stage II equipment per the invoice submitted. The Date Required is the date when the 2008 test was due and the Final Date is the compliance date.

Approx. Cost of Compliance

\$350

TOTAL

\$370

Screening Date 9-Jun-2010

Docket No. 2010-0953-PST-E

PCW

Respondent AMAKANOJIYA, INC dba Walkers Food Store

Policy Revision 2 (September 2002)

Case ID No. 39851

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101747632

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michael Meyer

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.248(5) and Tex. Health & Safety Code 382.085(b)

Violation Description Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel. Specifically, Stage II test results were not available for inspection.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	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 1

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.

Good Faith Efforts to Comply

25.0% Reduction \$250

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

Notes The Respondent achieved compliance on May 14, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$976

This violation Final Assessed Penalty (adjusted for limits) \$976

Economic Benefit Worksheet

Respondent: AMAKANOJIYA, INC dba Walkers Food Store

Case ID No. 39951

Reg. Ent. Reference No. RN101747632

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
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	13-May-2010	14-May-2010	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 maintain Stage II records at the Station. The Date Required is the investigation date and the Final Date is the date of compliance.

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN603514274 AMAKANOJIYA, INC Classification: AVERAGE Rating: 2.38
 Regulated Entity: RN101747632 WALKERS FOOD STORE Classification: AVERAGE Site Rating: 2.38

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 21258
 REGISTRATION

Location: 4417 HIGHWAY 146, BACLIFF, TX, 77518

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: June 09, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 09, 2005 to June 09, 2010

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

Name: Michael Meyer Phone: (512) 239 - 4492

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? AMAKANOJIYA, INC
4. If Yes, who was/were the prior owner(s)/operator(s) ? Pritham Investments, L.L.C.
5. When did the change(s) in owner or operator occur? 08/31/2006
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	02/22/2006	(454008)
2	05/03/2006	(461440)
3	09/13/2006	(487894)
4	07/26/2007	(567835)
5	11/30/2007	(600621)
6	05/19/2010	(803000)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/22/2006 (454008)	CN603514274	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.244(3)		
Description:	Failure to conduct monthly inspections of the components listed in §115.242(3)(J) of this title.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(4)		
Description:	Failure to maintain proof of attendance and completion of the training specified in §115.248 of this title.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(3)		
Description:	Failure to maintain a record of any maintenance conducted on any part of the		

Stage II equipment.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
 Description: Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
 Description: Failure to maintain a record of the results of testing conducted at the motor vehicle fuel dispensing facility.

Date: 05/03/2006 (461440) CN603514274
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)
 Description: Failure to conduct monthly inspections of the components listed in §115.242(3)(J) of this title.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)
 Description: Failure to maintain proof of attendance and completion of the training specified in §115.248 of this title.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)
 Description: Failure to maintain a record of any maintenance conducted on any part of the Stage II equipment.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
 Description: Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
 Description: Failure to maintain a record of the results of testing conducted at the motor vehicle fuel dispensing facility.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
 Description: Failure to verify proper operation of the Stage II equipment at least once every twelve months.

Date: 07/26/2007 (567835) CN603514274
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.245(3)
 Description: Failure to provide proper and timely notification to the appropriate regional office and any local air program with jurisdiction prior to testing a vapor recovery system.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 115, SubChapter C 115.245(6)
 Description: Failure to submit the results of all tests required by this section to the appropriate regional office and any local air pollution control program with jurisdiction within ten working days.

- 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
AMAKANOJIYA, INC DBA
WALKERS FOOD STORE
RN101747632

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-0953-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 AMAKANOJIYA, INC dba Walkers Food Store ("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 4417 Highway 146 in Bacliff, Galveston 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 May 24, 2010.
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 Four Hundred Fifteen Dollars (\$3,415) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid One Hundred Thrity-Three Dollars (\$133) of the administrative penalty and Six Hundred Eighty-Three Dollars (\$683) 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 Ninety-Nine Dollars (\$2,599) of the administrative penalty shall be payable in 23 monthly installments of One Hundred Thirteen Dollars (\$113) 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 installment, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Successfully conducted the 2008 annual testing of the Stage II equipment on August 15, 2008; and
 - b. Submitted the Stage II test results to the Galveston County Health District on May 14, 2010.
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 verify proper operation of Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 13, 2010. Specifically, the Respondent did not conduct the 2008 annual test by the May 30, 2008 due date.
2. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(5) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 13, 2010. Specifically, Stage II test results were not available for inspection.

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: AMAKANOJIYA, INC dba Walkers Food Store, Docket No. 2010-0953-PST-E" to:

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

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize the delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or 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 causes rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallier
For the Executive Director

11/10/2010
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.

Altaf K. Makanojiya
Signature

10-4-10
Date

ALTAF K. MAKANOJIYA
Name (Printed or typed)
Authorized Representative of
AMAKANOJIYA, INC dba Walkers Food Store

PRES.
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.

