

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-1219-PST-E **TCEQ ID:** RN101434280 **CASE NO.:** 40102  
**RESPONDENT NAME:** Saeed Zoobairie dba Oasis Mart

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Oasis Mart, 12915 Dessau Road, Austin, Travis County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 13, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Mr. Thomas Greimel, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-5690; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> Mr. Saeed A. Zoobairie, Owner, Oasis Mart, P.O. Box 200636, Austin, Texas 78720  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> May 24, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> July 21, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failed to monitor underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>2) Failed to provide proper release detection for the piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].</p> <p>3) Failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>4) Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>5) Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days</p>	<p><b>Total Assessed:</b> \$4,241</p> <p><b>Total Deferred:</b> \$848  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$3,393</p> <p><b>Compliance History Classifications:</b>                  Person/CN - Average                  Site/RN - Average</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted documentation verifying that the required annual piping tightness test and testing of the line leak detectors for performance and operational reliability were successfully conducted on May 29, 2010; and</p> <p>b. Cleaned the spill buckets and began conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins associated with the UST system on May 29, 2010.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement a release detection method for all USTs at the Facility and begin conducting reconciliation of inventory control; and</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>

to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free from liquid and debris. Specifically, the spill buckets for UST Nos. 1 and 2 contained debris [30 TEX. ADMIN. CODE § 334.42(i)].		
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--

Additional ID No(s): PST Registration 69801





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>TCEQ</b>	<b>DATES</b>	<b>Assigned</b>	26-Jul-2010	<b>Screening</b>	28-Jul-2010	<b>EPA Due</b>	
	<b>PCW</b>		4-Aug-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Saeed Zoobairie dba Oasis Mart
<b>Reg. Ent. Ref. No.</b>	RN101434280
<b>Facility/Site Region</b>	11-Austin
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	40102	<b>No. of Violations</b>	2
<b>Docket No.</b>	2010-1219-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Thomas Greimel
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$3,500
-------------------------------------------------------------	-------------------	---------

<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.		
<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$0

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$250
------------------------------------------------------	-------------------	-------

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$1,049	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,408		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$3,250
-----------------------------	-----------------------	---------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	30.5%	<b>Adjustment</b>	\$991
---------------------------------------------	-------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.  
Notes: Recommended enhancement to capture the avoided cost of compliance associated with Violation Nos. 1 and 2.

<b>Final Penalty Amount</b>	\$4,241
-----------------------------	---------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$4,241
-----------------------------------	-------------------------------	---------

<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$848
-----------------	-----------------	-------------------	--------

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)  
Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$3,393
------------------------	---------

Screening Date: 28-Jul-2010

Docket No.: 2010-1219-PST-E

PCW

Respondent: Saeed Zoobairie dba Oasis Mart

Policy Revision 2 (September 2002)

Case ID No.: 40102

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101434280

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Thomas Greimel

### Compliance History Worksheet

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

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

Adjustment Percentage (Subtotal 2) 0%

#### >> 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

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 28-Jul-2010

Docket No. 2010-1219-PST-E

PCW

Respondent Saeed Zoobalrie dba Oasis Mart

Policy Revision 2 (September 2002)

Case ID No. 40102

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434280

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide proper release detection for the piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test. Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: 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 65

Table for frequency: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$2,500

One quarterly event is recommended from the May 24, 2010 investigation date to the July 28, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with 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 \$944

Violation Final Penalty Total \$3,262

This violation Final Assessed Penalty (adjusted for limits) \$3,262

## Economic Benefit Worksheet

**Respondent:** Saeed Zoobalrie dba Oasis Mart  
**Case ID No.:** 40102  
**Reg. Ent. Reference No.:** RN101434280  
**Media:** Petroleum Storage Tank  
**Violation No.:** 1

Percent Interest	Years of Depreciation
5.0	15

**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)	\$1,500	24-May-2010	28-Feb-2011	0.77	\$58	n/a	\$58

Notes for DELAYED costs

Estimated cost to monitor the UST system for releases, including monthly reconciliation of inventory control. The Date Required is the investigation 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]	\$808	24-May-2009	29-May-2010	1.93	\$78	\$808
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost to conduct annual piping tightness and line leak detector tests, as per receipt. The Date Required is one year prior to the investigation. The Final Date is the date of compliance.

Approx. Cost of Compliance

\$2,308

**TOTAL**

\$944

Screening Date 28-Jul-2010

Docket No. 2010-1219-PST-E

PCW

Respondent Saeed Zoobairie dba Oasis Mart

Policy Revision 2 (September 2002)

Case ID No. 40102

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434280

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.42(l)

Violation Description

Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free from liquid and debris. Specifically, the spill buckets for UST Nos. 1 and 2 contained debris.

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

5 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended from the May 24, 2010 investigation date to the May 29, 2010 date of compliance.

Good Faith Efforts to Comply

25.0% Reduction

\$250

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

Notes

The Respondent came into compliance with this violation on May 29, 2010 prior to the July 21, 2010 Notice of Enforcement.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$979

This violation Final Assessed Penalty (adjusted for limits) \$979

# Economic Benefit Worksheet

**Respondent:** Saeed Zoobairie dba Oasis Mart  
**Case ID No.:** 40102  
**Reg. Ent. Reference No.:** RN101434280  
**Media:** Petroleum Storage Tank  
**Violation No.:** 2

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0
Buildings				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0
Engineering/construction				0.00	\$0	\$0
Land				0.00	\$0	n/a
Record Keeping System				0.00	\$0	n/a
Training/Sampling				0.00	\$0	n/a
Remediation/Disposal				0.00	\$0	n/a
Permit Costs				0.00	\$0	n/a
Other (as needed)				0.00	\$0	n/a

Notes for DELAYED costs

### 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
Personnel				0.00	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0
Supplies/equipment				0.00	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0
ONE-TIME avoided costs [3]	\$100	25-Mar-2010	29-May-2010	1.10	\$5	\$105
Other (as needed)				0.00	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. The Date required is 60 days before the investigation. The Final Date is the date of compliance.

Approx. Cost of Compliance

\$100

**TOTAL**

\$105

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600745061 Zoobairle, Saeed Classification: AVERAGE Rating: 3.01  
Regulated Entity: RN101434280 Oasis Mart Classification: AVERAGE BY Site Rating: 3.01  
DEFAULT  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 69801  
REGISTRATION  
Location: 12915 DESSAU RD, AUSTIN, TX, 78754  
TCEQ Region: REGION 11 - AUSTIN  
Date Compliance History Prepared: July 28, 2010  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 28, 2005 to July 28, 2010

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

Name: Thomas Greimet Phone: (512) 239-5690

## 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? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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.  
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 07/19/2010 (825197)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - 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  
SAEED ZOOBAIRIE DBA OASIS  
MART  
RN101434280**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-1219-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 Saeed Zoobairie dba Oasis Mart ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. 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 12915 Dessau Road in Austin, Travis County, Texas (the "Facility").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about July 26, 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 Four Thousand Two Hundred Forty-One Dollars (\$4,241) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Three Hundred

- Ninety-Three Dollars (\$3,393) of the administrative penalty and Eight Hundred Forty-Eight Dollars (\$848) 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.
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 Facility:
    - a. Submitted documentation verifying that the required annual piping tightness test and testing of the line leak detectors for performance and operational reliability were successfully conducted on May 29, 2010; and
    - b. Cleaned the spill buckets and began conducting bimonthly inspections of the sumps, manways, overflow containers or catchment basins associated with the UST system on May 29, 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 Facility, the Respondent is alleged to have:

1. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on May 24, 2010.
2. Failed to provide proper release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as

documented during an investigation conducted on May 24, 2010. Specifically, the Respondent did not conduct the annual piping tightness test.

3. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on May 24, 2010.
4. Failed to conduct reconciliation of inventory control records at least once a month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on May 24, 2010.
5. Failed to inspect all sumps, manways, overflow containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free from liquid and debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i), as documented during an investigation conducted on May 24, 2010. Specifically, the spill buckets for UST Nos. 1 and 2 contained debris.

### 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: Saeed Zoobairie dba Oasis Mart, Docket No. 2010-1219-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, implement a release detection method for all USTs at the Facility and begin conducting reconciliation of inventory control, in accordance with 30 TEX. ADMIN. CODE § 334.50; and

- 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  
Austin Regional Office  
Texas Commission on Environmental Quality  
2800 S IH 35, Suite 100  
Austin, Texas 78704-5712

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 Facility 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.

Saeed Zoobairie dba Oasis Mart  
DOCKET NO. 2010-1219-PST-E  
Page 6

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

John Jordan  
For the Executive Director

11/22/2010  
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.

S. A. Zoobairie  
Signature

Oct 19, 2010  
Date

SAEED A. ZOOBAIRIE  
Name (Printed or typed)  
Authorized Representative of  
Saeed Zoobairie dba Oasis Mart

OWNER  
Title

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