

Executive Summary – Enforcement Matter – Case No. 40011
ANS FINA BUSINESS ENTERPRISES INC DBA ANS FINA
RN101569366
Docket No. 2010-1128-PST-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
3501 West Walnut Street, Garland, Dallas County

Type of Operation:
convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: May 27, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed:	\$13,653
Amount Deferred for Expedited Settlement:	N/A
Amount Deferred for Financial Inability to Pay:	N/A
Total Paid to General Revenue:	\$0
Total Due to General Revenue:	\$13,653

Compliance History Classifications:
Person/CN – Average
Site/RN – Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: June 1, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): July 6, 2010

Violation Information

1. 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 [30 TEX. ADMIN. CODE § 334.42(i)].
2. Failed to maintain Stage II records at the Station [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(3)].
3. Failed to verify proper operation of the Stage II equipment at least once every 12 months [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2)].
4. Failed to prevent avoidable gasoline leaks, as detected by sight and smell, anywhere in the liquid transfer or vapor balance system [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE §§ 115.222(3) and 115.242(4)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Began inspecting the spill and overfill devices and removed liquids and debris from the spill buckets on June 5, 2010;
2. Began keeping Stage II maintenance records at the Station on June 5, 2010;
3. Conducted required annual testing of the Stage II equipment on June 23, 2010; and
4. Repaired the leaking nozzle on Dispenser No. 5 on June 5, 2010.

Technical Requirements:

1. Immediately, Respondent's UST fuel delivery certificate is revoked.
2. Within 10 days Respondent shall send its UST fuel delivery certificate to the TCEQ.
3. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times.

Litigation Information

Date Petition(s) Filed: February 15, 2011; March 16, 2011; April 4, 2011
Date(s) Green Card(s) Signed: February 17, 2011; March 18, 2011; April 6, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Executive Summary – Enforcement Matter – Case No. 40011
ANS FINA BUSINESS ENTERPRISES INC DBA ANS FINA
RN101569366
Docket No. 2010-1128-PST-E

Contact Information

TCEQ Attorneys: James Sallans, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400

TCEQ Enforcement Coordinator: Thomas Jecha, Waste Enforcement Section, (512) 239- 2576

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5903

Respondent: Raees Alam, Director, ANS Fina Business Enterprises Inc, 3501 West Walnut Street,
Garland, Texas 75042

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Jul-2010	Screening	13-Jul-2010	EPA Due	
	PCW	5-Oct-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	ANS Fina Business Enterprises Inc dba ANS Fina		
Reg. Ent. Ref. No.	RN101569366		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40011	No. of Violations	4
Docket No.	2010-1128-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Thomas Jecha, P.G.
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$625
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Notes	Enhancement for one previous Notice of Violation with the same or similar violations.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$529	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$1,300	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	4.0%	Adjustment	\$528
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to recover avoided costs of compliance associated with Violation Nos. 1 and 3.
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Final Penalty Amount	\$13,653
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,653
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$13,653
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Screening Date 13-Jul-2010

Docket No. 2010-1128-PST-E

PCW

Respondent ANS Fina Business Enterprises Inc dba ANS Fina

Policy Revision 2 (September 2002)

Case ID No. 40011

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101569366

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Jecha, P.G.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	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 (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of</i>	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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 previous Notice of Violation with the same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 13-Jul-2010

Docket No. 2010-1128-PST-E

PCW

Respondent ANS Fina Business Enterprises Inc dba ANS Fina

Policy Revision 2 (September 2002)

Case ID No. 40011

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101569366

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.42(i)

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 contained liquid and debris.

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 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 \$7,500

\$2,500

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 \$2,500

One quarterly event is recommended from the June 1, 2010 investigation date until the June 5, 2010 compliance date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th 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 \$106

Violation Final Penalty Total \$2,731

This violation Final Assessed Penalty (adjusted for limits) \$2,731

Economic Benefit Worksheet

Respondent ANS Fina Business Enterprises Inc dba ANS Fina
Case ID No. 40011
Req. Ent. Reference No. RN101569366
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$200	1-Jun-2010	5-Jun-2010	0.01	\$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 for removing liquid from the spill buckets and proper disposal. The date required is the investigation date and the final date is the 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]	\$100	2-Apr-2010	5-Jun-2010	1.09	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. The date required is 60 days prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$300

TOTAL

\$106

Screening Date 13-Jul-2010

Docket No. 2010-1128-PST-E

PCW

Respondent ANS Fina Business Enterprises Inc dba ANS Fina

Policy Revision 2 (September 2002)

Case ID No. 40011

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101569366

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.246(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records at the Station. Specifically, the Respondent did not maintain records of maintenance conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			25%
100% of the rule requirement was not met.					

Adjustment \$7,500

\$2,500

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 \$2,500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th 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 \$0

Violation Final Penalty Total \$2,731

This violation Final Assessed Penalty (adjusted for limits) \$2,731

Economic Benefit Worksheet

Respondent ANS Fina Business Enterprises Inc dba ANS Fina
Case ID No. 40011
Req. Ent. Reference No. RN101569366
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	1-Jun-2010	5-Jun-2010	0.01	\$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 compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$0

Screening Date 13-Jul-2010

Docket No. 2010-1128-PST-E

PCW

Respondent ANS Fina Business Enterprises Inc dba ANS Fina

Policy Revision 2 (September 2002)

Case ID No. 40011

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101569366

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 3

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

Violation Description Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II system annual compliance testing had not been conducted by the due date of March 25, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1 68 Number of violation days

mark only one with an x	daily		Violation Base Penalty \$5,000
	weekly		
	monthly		
	quarterly		
	semiannual		
	annual	x	
	single event		

One annual event is recommended for the period preceding the June 1, 2010 investigation.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$423 Violation Final Penalty Total \$5,461

This violation Final Assessed Penalty (adjusted for limits) \$5,461

Economic Benefit Worksheet

Respondent ANS Fina Business Enterprises Inc dba ANS Fina
Case ID No. 40011
Req. Ent. Reference No. RN101569366
Media Petroleum Storage Tank
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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]	\$400	25-Mar-2010	23-Jun-2010	1.16	\$23	\$400	\$423
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost to conduct the required Stage II annual testing. The date required is the test due date and the final date is the compliance date.

Approx. Cost of Compliance \$400

TOTAL \$423

Screening Date 13-Jul-2010

Docket No. 2010-1128-PST-E

PCW

Respondent ANS Fina Business Enterprises Inc dba ANS Fina

Policy Revision 2 (September 2002)

Case ID No. 40011

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101569366

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Jecha, P.G.

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 115.222(3) and 115.242(4) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prevent avoidable gasoline leaks, as detected by sight and smell, anywhere in the liquid transfer or vapor balance system. Specifically, the nozzle on Dispenser No. 5 was leaking gasoline at the handle, as observed by sight and smell.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to insignificant amounts of pollutants which do not 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 42 Number of violation days

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

Violation Base Penalty \$2,500

One quarterly event is recommended from the June 1, 2010 investigation until the June 5, 2010 compliance date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark w th 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 \$0

Violation Final Penalty Total \$2,731

This violation Final Assessed Penalty (adjusted for limits) \$2,731

Economic Benefit Worksheet

Respondent ANS Fina Business Enterprises Inc dba ANS Fina
Case ID No. 40011
Req. Ent. Reference No. RN101569366
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Jun-2010	5-Jun-2010	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to fix the nozzle on Dispenser No. 5. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN602498503 ANS Fina Business Enterprises Inc Classification: AVERAGE Rating: 2.75
Regulated Entity: RN101569366 ANS FINA Classification: AVERAGE Site Rating:2.75
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 15572
REGISTRATION
Location: 3501 W WALNUT ST, GARLAND, DALLAS CO, TX
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: July 12, 2010
Agency Decision Requiring Compliance Enforcement
Compliance Period: July 12, 2005 to July 12, 2010

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

Name: Thomas Jecha Phone: 239 - 2576

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 | 07/14/2005 | (398506) |
| 2 | 04/07/2009 | (740529) |
| 3 | 07/06/2010 | (825445) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/07/2009 (740529) CN602498503

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 training as specified in 115.248 (state approved Stage II training course) and documentation of all Stage II training for each employee (so long as employed).

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)

Description: Failure to maintain a record of the results of the daily inspections conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in '115.244 of this title (relating to Inspection Requirements).

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 12 months or upon major system replacement or modification, whichever occurs first. The verification shall include all functional tests that were required for the initial system test, except for TXP-101, Vapor Space Manifold, and TXP-103, Dynamic Backpressure, which must be performed at least once every 36 months.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)

Description: Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system. These instructions shall, at a minimum, include: A. a clear description of how to correctly dispense gasoline using the system; B. a warning against attempting to continue to refuel after initial shutoff of the system.

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
ANS FINA BUSINESS
ENTERPRISES INC DBA
ANS FINA;
RN101569366**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1128-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Second Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and revocation of the respondent's fuel delivery certificate. The Respondent made the subject of this Order is ANS Fina Business Enterprises Inc DBA ANS Fina ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 3501 West Walnut Street in Garland, Dallas County, Texas (the "Station"). Respondent's USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission and contain a regulated substance as defined by the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted on June 1, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. 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 contained liquid and debris;
 - b. Failed to maintain Stage II records at the Station. Specifically, Respondent did not maintain records of Stage II maintenance conducted at the Station;
 - c. Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II system annual compliance testing had not been conducted by the due date of March 25, 2010; and

- d. Failed to prevent avoidable gasoline leaks, as detected by sight and smell, anywhere in the liquid transfer or vapor balance system. Specifically, the nozzle on Dispenser No. 5 was leaking gasoline at the handle, as observed by sight and smell.
3. Respondent received notice of the violations on or about July 11, 2010.
4. The Executive Director recognizes that Respondent implemented the following corrective measures at the Station:
 - a. Began inspecting the spill and overfill devices and removed liquids and debris from the spill buckets, in compliance with 30 TEX. ADMIN. CODE § 334.42(i) on June 5, 2010 (Finding of Fact No. 2.a.);
 - b. Began keeping Stage II maintenance records at the Station, in compliance with 30 TEX. ADMIN. CODE § 115.246(3) on June 5, 2010 (Finding of Fact No. 2.b.);
 - c. Conducted required annual testing of the Stage II equipment, in compliance with 30 TEX. ADMIN. CODE § 115.245(2) on June 23, 2010 (Finding of Fact No. 2.c.); and
 - d. Repaired the leaking nozzle on Dispenser No. 5, in compliance with 30 TEX. ADMIN. CODE §§ 115.222(3) and 115.242(4) on June 5, 2010 (Finding of Fact No. 2.d.).
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against ANS Fina Business Enterprises Inc DBA ANS Fina" (the "EDPRP") in the TCEQ Chief Clerk's office on February 15, 2011.
6. By letter dated February 15, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on February 17, 2011, as evidenced by the signature on the card.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against ANS Fina Business Enterprises Inc DBA ANS Fina" (the "EDFARP") in the TCEQ Chief Clerk's office on March 16, 2011.
8. By letter dated March 16, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to the return receipt "green card," Respondent received notice of the EDFARP on March 18, 2011, as evidenced by the signature on the card.

9. The Executive Director filed the "Executive Director's Second Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against ANS Fina Business Enterprises Inc DBA ANS Fina" (the "EDSARP") in the TCEQ Chief Clerk's office on April 4, 2011.
10. By letter dated April 4, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDSARP. According to the return receipt "green card," Respondent received notice of the EDSARP on April 6, 2011, as evidenced by the signature on the card.
11. More than 20 days have elapsed since Respondent received notice of the EDPRP, the EDFARP, and the EDSARP, provided by the Executive Director. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent 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, in violation of 30 TEX. ADMIN. CODE § 334.42(i);
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to maintain Stage II records at the Station, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.246(3).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to verify proper operation of the Stage II equipment at the Station at least once every 12 months, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), and 30 TEX. ADMIN. CODE § 115.245(2).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to prevent avoidable gasoline leaks, as detected by sight and smell, anywhere in the liquid transfer or vapor balance system, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b), and 30 TEX. ADMIN. CODE §§ 115.222(3) and 115.242(4).
6. As evidenced by Findings of Fact Nos. 5 through 10, the Executive Director timely served Respondent with proper notice of the EDPRP, EDFARP, and EDSARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 11, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.

8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
9. An administrative penalty in the amount of thirteen thousand six hundred fifty-three dollars (\$13,653.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
11. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Respondent's UST fuel delivery certificate if the Commission finds that good cause exists.
12. Good cause for revocation of Respondent's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 5 through 11, and Conclusions of Law Nos. 2 through 7.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of thirteen thousand six hundred fifty-three dollars (\$13,653.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: ANS Fina Business Enterprises, Inc DBA ANS Fina; Docket No. 2010-1128-PST-E" to:

Financial Administration Division, Revenues Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
3. Respondent's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order.

4. Within 10 days after the effective date of this Order, Respondent shall send its UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
5. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
6. All relief not expressly granted in this Order is denied.
7. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE 334.8(c)(5)(A)(iii).
8. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
9. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
10. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
11. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
12. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
13. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF JIM SALLANS

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Jim Sallans. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against ANS Fina Business Enterprises Inc DBA ANS Fina" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 15, 2011.

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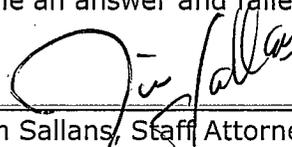
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Jim Sallans, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jim Sallans, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 9th day of May, A.D. 2011.



Notary Signature

