

Executive Summary – Enforcement Matter – Case No. 40158

AMEER ALI JASANI

RN101728350

Docket No. 2010-1309-PST-E

Order Type:

Default Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

N/A

Location(s) Where Violation(s) Occurred:

539 North Pine Street, Woodville, Tyler County

Type of Operation:

former underground storage tank ("UST") site

Other Significant Matters:

Additional Pending Enforcement Actions: An enforcement action against the UST Removal On-Site Supervisor, Robert M. Youngblood, is currently pending at SOAH (2011-0482-PST-E).

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: Robert M. Youngblood, UST On-Site Supervisor License No. ILP000115

Texas Register Publication Date: May 27, 2011

Comments Received: None

Penalty Information

Total Penalty Assessed: \$22,225

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: \$22,225

Compliance History Classifications:

Person/CN – Average

Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

AMEER ALI JASANI
RN101728350
Docket No. 2010-1309-PST-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: April 26, 2010
Date(s) of NOV(s): N/A
Date(s) of NOE(s): June 14, 2010

Violation Information

1. Failed to empty, disconnect, and properly plug, cap or remove all connected piping and other ancillary equipment of the UST system prior to removal or transporting it from the Facility [30 TEX. ADMIN. CODE § 334.55(b)(3) and (b)(5)(C)(iii)].
2. Failed to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances [30 TEX. ADMIN. CODE § 334.48(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 60 days, initiate an investigation to determine the source(s) and to characterize the nature, lateral and vertical extent, direction, rate of movement, volume, composition, and concentration of contaminants in soil and groundwater at the Facility pursuant to 30 TEX. ADMIN. CODE § 334 subchapter D (Release Reporting and Corrective Action), and comply with written requests for additional investigation and/or remediation.
2. Within 90 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: February 23, 2011
Date(s) Green Card(s) Signed: February 25, 2011
Date(s) Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A

Contact Information

TCEQ Attorneys: Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Rajesh Acharya, Waste Enforcement Section, (512) 239-0577

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

Respondent: Ameer Ali Jasani, P.O. Box 877, Newton, Texas 75966

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-Jun-2010	Screening	23-Jul-2010	EPA Due	
	PCW	2-Nov-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Ameer Ali Jasani		
Reg. Ent. Ref. No.	RN101728350		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40158	No. of Violations	2
Docket No.	2010-1309-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rajesh Acharya
		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	\$17,500
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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	27.0% Enhancement	Subtotals 2, 3, & 7	\$4,725
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Notes: Enhancement for one notice of violation for dissimilar violations and one prior default order.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2,443
 Approx. Cost of Compliance: \$51,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$22,225
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$22,225
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$22,225
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$22,225
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Screening Date 23-Jul-2010

Docket No. 2010-1309-PST-E

PCW

Respondent Ameer Ali Jasani

Policy Revision 2 (September 2002)

Case ID No. 40158

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101728350

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

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>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of</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) 27%

>> 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 notice of violation for dissimilar violations and one prior default order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 23-Jul-2010

Docket No. 2010-1309-PST-E

PCW

Respondent Ameer Ali Jasani

Policy Revision 2 (September 2002)

Case ID No. 40158

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101728350

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.55(b)(3) and 334.55(b)(5)(C)(iii)

Violation Description

Failed to empty, disconnect, and properly plug, cap, or remove all connected piping and other ancillary equipment of a underground storage tank ("UST") system prior to removal or transporting it from the Facility. Specifically, the investigator observed unplugged piping leaking into the excavation, and also observed a hole in one of the USTs that had been removed and placed on the transporter's flatbed trailer.

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 88 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 based on documentation of the violation during the April 26, 2010 investigation date to the July 23, 2010 screening 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 \$3,175

This violation Final Assessed Penalty (adjusted for limits) \$3,175

Economic Benefit Worksheet

Respondent Ameer Ali Jasani
Case ID No. 40158
Req. Ent. Reference No. RN101728350
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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	25-Apr-2010	26-Apr-2010	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly plug all holes and openings. Date Required is the date the hole was plugged. Final Date is the date the tank was transported to an authorized facility.

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 23-Jul-2010

Docket No. 2010-1309-PST-E

PCW

Respondent Ameer Ali Jasani

Policy Revision 2 (September 2002)

Case ID No. 40158

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101728350

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.48(a)

Violation Description Failed to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances. Specifically, a release from the unplugged UST piping was observed during the removal of the UST system from the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (50%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment has been exposed to pollutants which 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 3 Number of violation days 88

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

Violation Base Penalty \$15,000

Three monthly events are recommended based on documentation of the violation during the April 26, 2010 investigation date to the July 23, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,884

Violation Final Penalty Total \$19,050

This violation Final Assessed Penalty (adjusted for limits) \$19,050

Economic Benefit Worksheet

Respondent Ameer Ali Jasani
Case ID No. 40158
Req. Ent. Reference No. RN101728350
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
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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	\$50,000	26-Apr-2010	26-Jan-2011	0.75	\$1,884	n/a	\$1,884
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to properly clean up and dispose of contaminated soils and groundwater. Date required is the investigation date. Final Date is the estimated 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

\$50,000

TOTAL

91

\$1,884

Compliance History Report

Customer/Respondent/Owner-Operator: CN603487604 JASANI, AMEER ALI Classification: AVERAGE Rating: 39.50
Regulated Entity: RN101728350 RPM KWIC STOP 3 Classification: AVERAGE Site Rating: 39.50

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 32416
REGISTRATION

Location: 539 N PINE ST, WOODVILLE, TX, 75979

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: July 13, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 13, 2005 to July 13, 2010

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

Name: Rajesh Acharya Phone: (512) 239-0577

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? Jasani, Ameer Ali
4. If Yes, who was/were the prior owner(s)/operator(s)?
Meena International, Inc.
Sobhani Traders
Hernandez, Lorenzo
5. When did the change(s) in owner or operator occur?
09/01/2007
04/13/2007
11/01/2005
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.

Effective Date: 03/28/2008

ADMINORDER 2007-0900-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to update Petroleum Storage Tank (PST) Registration form.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter D 334.74

Description: Failure of owner and/or operator to immediately investigate suspected releases of regulated substances requiring reporting under 30 TAC 334.72 within 30 days, using 30 TAC 334.74 outlined steps or another procedure and schedule approved or required by the agency.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

30 TAC Chapter 334, SubChapter C 334.54(b)

30 TAC Chapter 334, SubChapter C 334.54(d)(2)

Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements or to ensure that any residue not exceed 2.5 cm or 0.3% by weight or to assure that, equipment be secured to prevent access, tampering, or vandalism by unauthorized persons.

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	02/28/2006	(451132)
2	03/23/2007	(538336)
3	04/20/2007	(542277)
4	04/20/2007	(555529)
5	06/02/2009	(747309)

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

Date: 01/26/2007 (451132)

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.47(a)(2)		
Description:	At the time of the investigation, no documentation was available to verify the UST system is in compliance with upgrade requirements for corrosion protection, release detection, financial assurance, and self-certification.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.54(d)(2)		
Description:	Failure to ensure that any residue from stored regulated substances which remain in a temporarily out of service UST shall not exceed 2.5 centimeters at the deepest point and shall not exceed 0.3 percent by weight of the system at full capacity.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.54(b)		
Description:	Failure to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons no later three months after the UST system service ended.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter A 334.7(d)(3)		
Description:	Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.		

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
AMEER ALI JASANI;
RN101728350**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2010-1309-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Ameer Ali Jasani ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned an underground storage tank ("UST") system that was removed from the ground at 539 North Pine Street in Woodville, Tyler County, Texas (the "Facility"). The USTs at the Facility were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on April 26, 2010, a TCEQ Beaumont Regional Office investigator documented that Respondent:
 - a. Failed to empty, disconnect, and properly plug, cap or remove all connected piping and other ancillary equipment of a UST system prior to removal or transporting it from the Facility. Specifically, the investigator observed unplugged piping leaking into the excavation, and also observed a hole in one of the USTs that had been removed and placed on the transporter's flatbed trailer; and
 - b. Failed to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances. Specifically, a release from the unplugged UST piping was observed during the removal of the UST system from the Facility.
3. Respondent received notice of the violations on or about February 25, 2011.
4. 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 and Requiring

Certain Actions of Ameer A. Jasani and Robert M. Youngblood" (the "EDPRP") in the TCEQ Chief Clerk's office on February 23, 2011.¹

5. By letter dated February 23, 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 25, 2011, as evidenced by the signature on the card.
6. More than 20 days have elapsed since Respondent received notice of the EDPRP, 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 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to empty, disconnect, and properly plug, cap or remove all connected piping and other ancillary equipment of a UST system prior to removal or transporting it from the Facility, in violation of 30 TEX. ADMIN. CODE § 334.55(b)(3) and (b)(5)(C)(iii).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to ensure that the UST system is operated, maintained, and managed in a manner that will prevent releases of regulated substances, in violation of 30 TEX. ADMIN. CODE § 334.48(a).
4. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
5. As evidenced by Finding of Fact No. 6, 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.
6. 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.
7. An administrative penalty in the amount of twenty-two thousand two hundred twenty-five dollars (\$22,225.00) dollars is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.

¹ Robert M. Youngblood filed a hearing request on March 28, 2011, was severed from the instant case, and assigned TCEQ Docket No. 2011-0482-PST-E.

8. 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.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of twenty-two thousand two hundred twenty-five dollars (\$22,225.00) 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: Ameer Ali Jasani; Docket No. 2010-1309-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 shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Order, Respondent shall initiate an investigation to determine the source(s) and to characterize the nature, lateral and vertical extent, direction, rate of movement, volume, composition, and concentration of contaminants in soil and groundwater at the Facility, in accordance with 30 TEX. ADMIN. CODE ch. 334, Subchapters D and G, and shall comply with any written requests for additional investigation and/or remediation from the TCEQ Remediation Division; and
 - b. Within 90 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and/or other records, to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and shall include the following certification language:

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

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Derek Eades, Waste Section Manager
Texas Commission on Environmental Quality
Beaumont Regional Office
3870 Eastex Freeway
Beaumont, Texas 77703-1830

and:

Carolyn Hay, Remediation Division
Texas Commission of Environmental Quality
Office of Compliance & Enforcement, PST/DCRP Section
P.O. Box 13087, MC-137
Austin, TX 78711-3087

4. All relief not expressly granted in this Order is denied.
5. 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 Facility operations referenced in this Order.
6. 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.
7. 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 receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. 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 have not complied with one or more of the terms or conditions in this Order.
9. 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.
10. 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 PHILLIP M. GOODWIN

STATE OF TEXAS

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§

COUNTY OF TRAVIS

"My name is Phillip M. Goodwin. 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 and Requiring Certain Actions of Ameer A. Jasani and Robert M. Youngblood" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 23, 2011.

The EDPRP was mailed to Ameer Ali Jasani's ("Respondent's") last known addresses on February 23, 2011 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on February 25, 2011, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference."



Phillip M. Goodwin, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, 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 2nd day of May, A.D. 2011.


Notary Signature