

Executive Summary – Enforcement Matter – Case No. 41196  
NOORANI & BROTHERS, INC. d/b/a Shop N Go  
RN103020822  
Docket No. 2011-0355-PST-E

**Order Type:**

Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

97 Tidwell Road, Houston, Harris 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:** February 17, 2012

**Comments Received:** None

***Penalty Information***

**Total Penalty Assessed:** \$19,820

**Amount Deferred for Expedited Settlement:** N/A

**Amount Deferred for Financial Inability to Pay:** N/A

**Total Paid to General Revenue:** \$6,590

**Total Due to General Revenue:** \$13,230

Payment Plan: 35 payments of \$378 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – Average

Site/RN – Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

***Investigation Information***

**Complaint Date(s):** N/A  
**Date(s) of Investigation:** January 10, 2011  
**Date(s) of NOV(s):** N/A  
**Date(s) of NOE(s):** February 9, 2011

***Violation Information***

1. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].
2. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); and failed to conduct reconciliation of detailed inventory control records at least once each month [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].
3. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with the 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 or debris [30 TEX. ADMIN. CODE § 334.42(i)].
4. Failed to immediately investigate a suspected release of a regulated substance after the receipt of a failed statistical inventory reconciliation analysis report [30 TEX. ADMIN. CODE § 334.74].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

1. Submitted documentation to the Houston Regional Office on January 31, 2011, indicating that release detection, including reconciliation of monthly inventory records, was being performed; and
2. Submitted an updated UST registration and self-certification form on February 1, 2011, updating the current operational status of tank no. 3 as temporarily out-of-service

**Technical Requirements:**

1. Immediately, investigate the suspected release of regulated substance from the UST system and report the findings
2. Within 30 days:
  - a. Conduct the required bimonthly inspection of the spill and overfill equipment; and
  - b. Establish and implement a process for investigating a suspected release, including appropriate corrective measures for determining suspected releases.
3. Within 45 days, submit written certification that demonstrates compliance.

**Executive Summary – Enforcement Matter – Case No. 41196**  
**NOORANI & BROTHERS, INC. d/b/a Shop N Go**  
**RN103020822**  
**Docket No. 2011-0355-PST-E**

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***Litigation Information***

**Date Petition(s) Filed:** June 2, 2011  
**Date Answer(s) Filed:** July 14, 2011  
**SOAH Referral Date:** August 22, 2011  
**Hearing Date(s):**  
    Preliminary hearing: October 6, 2011  
    Evidentiary hearing: February 6, 2012 (scheduled)  
**Settlement Date:** January 16, 2012

***Contact Information***

**TCEQ Attorneys:** Sharesa Y. Alexander, Litigation Division, (512) 239-3503  
    Lena Roberts, Litigation Division, (512) 239-3400  
**TCEQ SEP Coordinator:** N/A  
**TCEQ Enforcement Coordinator:** Keith Frank, Waste Enforcement Section, (512) 239-1203  
**TCEQ Regional Contact:** Nicole Bealle, Houston Regional Office, (713) 767-3623  
**Respondent:** Nooruddin Lankhani, Director, Noorani & Brothers, Inc., 97 Tidwell Road, Houston, Texas 77022

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# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	14-Feb-2011	<b>Screening</b>	22-Feb-2011	<b>EPA Due</b>	
	<b>PCW</b>	23-May-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>						
<b>Respondent</b>	NOORANI & BROTHERS, INC. dba Shop N Go					
<b>Reg. Ent. Ref. No.</b>	RN103020822					
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor			

<b>CASE INFORMATION</b>						
<b>Enf./Case ID No.</b>	41196	<b>No. of Violations</b>	4			
<b>Docket No.</b>	2011-0355-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>	Keith Frank			
		<b>EC's Team</b>	Enforcement Team 7			
<b>Admin. Penalty \$ Limit</b>	Minimum	\$0	<b>Maximum</b>	\$10,000		

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$14,500</b>
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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.

<b>Compliance History</b>	42.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$6,090</b>
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Notes: Enhancement for two previous orders with denial of liability and one previous NOV with dissimilar violations.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$875</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$357  
 Approx. Cost of Compliance: \$6,700  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$19,715</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.5%	<b>Adjustment</b>	<b>\$105</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 3.

<b>Final Penalty Amount</b>	<b>\$19,820</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$19,820</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$19,820</b>
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**Screening Date** 22-Feb-2011

**Docket No.** 2011-0355-PST-E

**PCW**

**Respondent** NOORANI & BROTHERS, INC. dba Shop N Go

*Policy Revision 2 (September 2002)*

**Case ID No.** 41196

*PCW Revision October 30, 2008*

**Reg. Ent. Reference No.** RN103020822

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Keith Frank

### 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 ( <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> )	2	40%
	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 counts</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)** 42%

**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for two previous orders with denial of liability and one previous NOV with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 42%

Screening Date 22-Feb-2011

Docket No. 2011-0355-PST-E

PCW

Respondent NOORANI & BROTHERS, INC. dba Shop N Go

Policy Revision 2 (September 2002)

Case ID No. 41196

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103020822

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description Failed to notify the agency of any change or additional information regarding the underground storage tanks ("USTs") within 30 days of the occurrence of the change or addition. Specifically, the current operational status for tank no. 3 was not updated as temporarily out-of-service.

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			10%
	100% of the rule requirement was not met.				

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 22 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

	25.0%	Reduction	\$250
		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary	x		
N/A		(mark with x)	

Notes The Respondent came into compliance on February 1, 2011, prior to the Notice of Enforcement ("NOE") dated February 9, 2011.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0 Violation Final Penalty Total \$1,176

This violation Final Assessed Penalty (adjusted for limits) \$1,176

## Economic Benefit Worksheet

**Respondent** NOORANI & BROTHERS, INC. dba Shop N Go  
**Case ID No.** 41196  
**Req. Ent. Reference No.** RN103020822  
**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
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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				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	10-Jan-2011	1-Feb-2011	0.06	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. Date Required is the investigation date. 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

Screening Date 22-Feb-2011

Docket No. 2011-0355-PST-E

PCW

Respondent NOORANI & BROTHERS, INC. dba Shop N Go

Policy Revision 2 (September 2002)

Case ID No. 41196

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103020822

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 2

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

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Also, failed to conduct reconciliation of detailed inventory control records at least once each 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

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 21 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the January 10, 2011 investigation to the January 31, 2011 date of compliance.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent came into compliance on January 31, 2011, prior to the NOE dated February 9, 2011.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$2,941

This violation Final Assessed Penalty (adjusted for limits) \$2,941

## Economic Benefit Worksheet

**Respondent** NOORANI & BROTHERS, INC. dba Shop N Go  
**Case ID No.** 41196  
**Req. Ent. Reference No.** RN103020822  
**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				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	10-Jan-2011	31-Jan-2011	0.06	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs including monthly reconciliation of inventory control records. Date Required is the investigation date. 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

\$1,500

**TOTAL**

\$4

Screening Date 22-Feb-2011

Docket No. 2011-0355-PST-E

PCW

Respondent NOORANI & BROTHERS, INC. dba Shop N Go

Policy Revision 2 (September 2002)

Case ID No. 41196

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103020822

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 3

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 or debris. Specifically, the overspill containers contained liquid and debris.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (10%).

>> Programmatic Matrix

Table with columns: 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 43 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the January 10, 2011 investigation to the February 22, 2011 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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105 Violation Final Penalty Total \$1,428

This violation Final Assessed Penalty (adjusted for limits) \$1,428

## Economic Benefit Worksheet

**Respondent** NOORANI & BROTHERS, INC. dba Shop N Go  
**Case ID No.** 41196  
**Req. Ent. Reference No.** RN103020822  
**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]	\$100	11-Nov-2010	10-Jan-2011	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. Date Required is 60 days prior to the investigation. Final Date is the investigation date.

Approx. Cost of Compliance \$100

**TOTAL** \$105

Screening Date 22-Feb-2011

Docket No. 2011-0355-PST-E

PCW

Respondent NOORANI & BROTHERS, INC. dba Shop N Go

Policy Revision 2 (September 2002)

Case ID No. 41196

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103020822

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to immediately investigate a suspected release of a regulated substance after the receipt of a failed statistical inventory reconciliation ("SIR") analysis report. Specifically, the Respondent did not investigate a suspected release after receiving a failing evaluation from the SIR vendor for the month of October 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

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 4 99 Number of violation days

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

Violation Base Penalty \$10,000

Four monthly events are recommended from the release investigation due date of November 15, 2010 to the February 22, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$247

Violation Final Penalty Total \$14,276

This violation Final Assessed Penalty (adjusted for limits) \$14,276

## Economic Benefit Worksheet

**Respondent** NOORANI & BROTHERS, INC. dba Shop N Go  
**Case ID No.** 41196  
**Req. Ent. Reference No.** RN103020822  
**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)	\$5,000	15-Nov-2010	11-Nov-2011	0.99	\$247	n/a	\$247

Notes for DELAYED costs

Estimated cost to establish investigative procedures and investigate a suspected release. Date Required is the date when the release investigation was due. Final Date is the estimated date of compliance.

### Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$247

# Compliance History

Customer/Respondent/Owner-Operator: CN603668641 NOORANI& BROTHERS, INC. Classification: AVERAGE Rating: 30.67  
Regulated Entity: RN103020822 Shop N Go Classification: AVERAGE Site Rating: 30.67  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 63985  
Location: 97 TIDWELL RD, HOUSTON, TX, 77022  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: February 18, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 18, 2006 to February 18, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:  
Name: Keith Frank Phone: (512) 239-1203

## 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?  
OPR NOORANI & BROTHERS, INC.  
OWN SYED & NASRU ENTERPRISES, INC.
4. If Yes, who was/were the prior owner(s)/operator(s)? OWN/OPR SYED & NASRU ENTERPRISES, INC.
5. When did the change(s) in owner or operator occur? 03/28/2010
6. Rating Date: 9/1/2010 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: 08/30/2010 ADMINORDER 2009-1751-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)

Description: Failure to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.

Classification: Moderate

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

Description: Failure to notify the agency of any change or additional information regarding the UST within 30 days of the change or addition.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)  
2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)  
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)

Description: Failure to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Failure to provide proper release detection for the pressurized piping associated with the USTs. Failure to test the line leak detectors at least once per year for performance and operational reliability.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)  
5C THSC Chapter 382 382.085(b)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system.

### Effective Date: 02/05/2011 ADMINORDER 2010-1131-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)  
5C THSC Chapter 382 382.085(b)

Description: Failed to verify proper operation of the Stage II equipment at least once every 12 months and the Stage II vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)  
5C THSC Chapter 382 382.085(b)

Description: Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the vapor return line was blocked.

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	04/03/2006	(460040)
2	03/31/2008	(638531)
3	10/17/2008	(705268)
4	10/23/2009	(776906)
5	07/08/2010	(830141)
6	02/09/2011	(891641)
7	02/14/2011	(895441)

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

**Date:** 03/31/2008 (638531) CN603668641

Self Report? NO Classification: Moderate

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

Description: Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage 11 vapor recovery system by successfully completing a training course approved by the executive director. Successful completion shall constitute certification of the facility representative.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)

Description: Failure to maintain a record of the results of testing conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in § 115.245 of this title (relating to Testing Requirements).

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  
NOORANI & BROTHERS, INC.  
D/B/A SHOP N GO;  
RN103020822**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2011-0355-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding NOORANI & BROTHERS, INC. d/b/a Shop N Go ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent operates, as defined in 30 TEX. ADMIN. CODE § 334.2(70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 97 Tidwell Road in Houston, Harris County, Texas (the "Facility"). The USTs at the Facility are 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. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of nineteen thousand eight hundred twenty dollars (\$19,820.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid six thousand five hundred ninety dollars (\$6,590.00) of the administrative penalty. The remaining amount of thirteen thousand two hundred thirty dollars (\$13,230.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred seventy-eight dollars (\$378.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this

Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.

6. 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.
7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
8. The Executive Director recognizes that Respondent implemented the following corrective measures at the Facility:
  - a. Submitted documentation to the Houston Regional Office on January 31, 2011, indicating that release detection, including reconciliation of monthly inventory records, was being performed; and
  - b. Submitted an updated UST registration and self-certification form on February 1, 2011, updating the current operational status of tank no. 3 as temporarily out-of-service.
9. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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

1. During an investigation conducted on January 10, 2011, a TCEQ Houston Regional Office investigator documented that Respondent:
  - a. Failed to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3). Specifically, the current operational status for tank no. 3 was not updated as temporarily out-of-service;
  - b. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); and failed to conduct reconciliation of detailed inventory control records at least once each 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(b)(1)(A) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1);

- c. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with the 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 or debris, in violation of 30 TEX. ADMIN. CODE § 334.42(i). Specifically, the overspill containers contained liquid and debris; and
  - d. Failed to immediately investigate a suspected release of a regulated substance after the receipt of a failed statistical inventory reconciliation ("SIR") analysis report, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, Respondent did not investigate a suspected release after receiving a failing evaluation from the SIR vendor for the month of October 2010.
2. Respondent received notice of the alleged violations on or about February 14, 2011.

### III. DENIALS

Respondent generally denies each Allegation in Section II.

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and 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 considering or requiring corrective actions or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: NOORANI & BROTHERS, INC. d/b/a Shop N Go, Docket No. 2011-0355-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

2. Respondent shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Agreed Order, Respondent shall investigate the suspected release of regulated substance from the UST system and report the findings, in accordance with 30 TEX. ADMIN. CODE §§ 334.72 and 334.74;
  - b. Within 30 days after the effective date of this Agreed Order, Respondent shall:
    - i. Conduct the required bimonthly inspection of the spill and overfill equipment, in accordance with 30 TEX. ADMIN. CODE § 334.42; and
    - ii. Establish and implement a process for investigating a suspected release, including appropriate corrective measures for determining suspected releases, in accordance with 30 TEX. ADMIN. CODE § 334.74.
  - c. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a. and 2.b. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs,

receipts, and/or other records, 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 supporting 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:

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

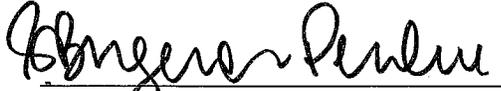
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If 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, Respondent's failure to comply is not a violation of this Agreed 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.
6. 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 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against 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.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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



\_\_\_\_\_  
For the Executive Director

2/24/2012 *low*  
~~01-14-2012~~  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of NOORANI & BROTHERS, INC. d/b/a Shop N Go, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.



\_\_\_\_\_  
Signature -Nooruddin Lankhani, Director  
NOORANI & BROTHERS, INC.

01-14-2012  
\_\_\_\_\_  
Date