

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43925
Bains Brothers, LLC d/b/a Bains Brothers Petroleum 6
RN100532373
Docket No. 2012-0757-PST-E

Order Type:

Agreed Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

591 West Campbell Road, Richardson, 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: March 29, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$17,600

Total Paid to General Revenue: \$800

Total Due to General Revenue: \$16,800

Payment Plan: 35 payments of \$480 each

SEP Conditional Offset: N/A

Compliance History Classifications:

Person/CN – Average
Site/RN – Average By Default

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: June 16, 2011; February 22, 2012

Date(s) of NOV(s): N/A

Date(s) of NOE(s): February 22, 2012

Violation Information

1. Failed to report to the TCEQ a suspected release of regulated substances within 24 hours of discovery [30 TEX. ADMIN. CODE § 334.72].
2. Failed to investigate a suspected release of regulated substances within 30 days of discovery [30 TEX. ADMIN. CODE § 334.74].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On January 11, 2013, Respondent submitted properly completed inventory control records for the month of May 2011. The records indicated that there was no release of regulated substances.

Technical Requirements:

1. Immediately after the effective date of this Agreed Order, Respondent shall implement procedures to ensure that suspected releases of regulated substances are properly reported and investigated.
2. Within 30 days, submit written certification to demonstrate compliance.

Litigation Information

Date Petition(s) Filed: October 2, 2012

Date Answer(s) Filed: October 18, 2012

SOAH Referral Date: November 19, 2012

Hearing Date(s):

Preliminary hearing: January 10, 2013

Evidentiary hearing: June 4, 2013 (Scheduled)

Settlement Date: March 4, 2013

Contact Information

TCEQ Attorneys: Kari L. Gilbreth, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Garrett Arthur, Public Interest Counsel, (512) 239-6363

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Theresa Stephens, Enforcement Division, (512) 239-2540

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-8500

Respondent: Kuldip S. Bains, President, Bains Brothers, LLC, 3600 Huffines Blvd., Carrollton, Texas 75010-6412; and 591 W. Campbell Road, Richardson, Texas 75080-3326

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Mar-2012	Screening	15-Mar-2012	EPA Due	
	PCW	28-Jul-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Bains Brothers, LLC dba Bains Brothers Petroleum 6		
Reg. Ent. Ref. No.	RN100532373		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	43925	No. of Violations	2
Docket No.	2012-0757-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Theresa Stephens
		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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 0.0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

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

Total EB Amounts	\$484	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,100	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$17,500

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.6% **Adjustment** \$100

Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount \$17,600

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$17,600

DEFERRAL 0.0% Reduction **Adjustment** \$0

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.

PAYABLE PENALTY \$17,600

Screening Date 15-Mar-2012

Docket No. 2012-0757-PST-E

PCW

Respondent Bains Brothers, LLC dba Bains Brothers Petroleum 6

Policy Revision 2 (September 2002)

Case ID No. 43925

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100532373

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Stephens

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	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 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) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

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

Screening Date	15-Mar-2012	Docket No.	2012-0757-PST-E	PCW
Respondent	Bains Brothers, LLC dba Bains Brothers Petroleum 6			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43925			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN100532373			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Theresa Stephens			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 334.72

Violation Description

Failed to report to the TCEQ a suspected release of regulated substances within 24 hours of discovery. Specifically, inventory control records for May 2011 indicated a suspected release that was not reported.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events

Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="text" value="x"/>	(mark with x)

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent Bains Brothers, LLC dba Bains Brothers Petroleum 6
Case ID No. 43925
Reg. Ent. Reference No. RN100532373
Media 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)				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	1-Jun-2011	2-Jun-2011	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. The Date Required is the date of the suspected release and the Final Date is the date the report was due.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date 15-Mar-2012

Docket No. 2012-0757-PST-E

PCW

Respondent Bains Brothers, LLC dba Bains Brothers Petroleum 6

Policy Revision 2 (September 2002)

Case ID No. 43925

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100532373

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Stephens

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.74

Violation Description

Failed to investigate a suspected release of regulated substances within 30 days of discovery. Specifically, inventory control records for May 2011 indicated a suspected release that was not investigated.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> 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 3

258 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Three quarterly events are recommended from the release investigation due date of July 1, 2011 to the March 15, 2012 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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$384

Violation Final Penalty Total \$15,086

This violation Final Assessed Penalty (adjusted for limits) \$15,086

Economic Benefit Worksheet

Respondent Bains Brothers, LLC dba Bains Brothers Petroleum 6
Case ID No. 43925
Reg. Ent. Reference No. RN100532373
Media Violation No. Petroleum Storage Tank
 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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	1-Jul-2011	11-Jan-2013	1.53	\$384	n/a	\$384

Notes for DELAYED costs Estimated cost to investigate a suspected release. The Date Required is the date the release investigation was due 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 \$5,000

TOTAL \$384

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603273889	Bains Brothers, LLC	Classification: AVERAGE	Rating: 1.75
Regulated Entity:	RN100532373	BAINS BROTHERS PETROLEUM 6	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	17688
Location:	591 W CAMPBELL RD, RICHARDSON, TX, 75080			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	April 10, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 10, 2007 to April 10, 2012			

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

Name: Theresa Stephens Phone: (512) 239-2540

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. If **YES**, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 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 02/22/2012 (941708)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

THIS PAGE INTENTIONALLY LEFT BLANK

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BAINS BROTHERS, LLC D/B/A
BAINS BROTHERS PETROLEUM 6;
RN100532373**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2012-0757-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 Bains Brothers, LLC d/b/a Bains Brothers Petroleum 6 ("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 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 591 West Campbell Road in Richardson, Dallas County, Texas (Facility ID No. 17688) (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 seventeen thousand six hundred dollars (\$17,600.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid eight hundred dollars (\$800.00) of the administrative penalty. The remaining amount of sixteen thousand eight hundred dollars (\$16,800.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of four hundred eighty dollars (\$480.00) 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 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 contained in this Agreed Order.
9. 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.
10. 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.
11. The Executive Director recognizes that Respondent submitted properly completed inventory control records for the Facility to TCEQ on January 11, 2013, for the month of May 2011. The records indicated that there was not a release of regulated substances.

II. ALLEGATIONS

1. During an investigation conducted on June 16, 2011, and a record review conducted on February 22, 2012, a UT-Arlington PST Program investigator (TCEQ contractor) documented that Respondent:
 - a. Failed to report to the TCEQ a suspected release of regulated substances within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, inventory control records for the Facility for May 2011 indicated a suspected release that was not reported; and
 - b. Failed to investigate a suspected release of regulated substances within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, inventory control records for the Facility for May 2011 indicated a suspected release that was not investigated.
2. Respondent received notice of the violations on or about February 27, 2012.

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: Bains Brothers, LLC d/b/a Bains Brothers Petroleum 6, Docket No. 2012-0757-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 after the effective date of this Agreed Order, Respondent shall implement procedures to ensure that suspected releases of regulated substances are properly investigated and reported, 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 submit written certification to demonstrate compliance with Ordering Provision No. 2.a. The certification 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:

Sam Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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

M. Sweeney
For the Executive Director

~~03/4/13~~ May 3, 2013
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 Bains Brothers, LLC d/b/a Bains Brothers Petroleum 6, 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.

Kuldip Bains
Signature - Kuldip S. Bains, President
Bains Brothers, LLC

03/4/13
Date