EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-0628-PST-E **TCEQ ID:** RN101378248 **CASE NO.:** 29569

RESPONDENT NAME: MK Family Limited Partnership dba Jiffy Mart 5

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	__AIR	__INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	X PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
__MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: Jiffy Mart 5, 101 Luther Drive, Georgetown, Williamson County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: __X__ Yes ____ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on November 20, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Ms. Judy Kluge, Enforcement Division, Enforcement Section IV, MC R-04, (817) 588-5825; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896
TCEQ Field Investigator: Ms. Melonie Knussmann, Austin Regional Office, MC R-11, (512) 339-2929
Respondent: Mr. Mohammad Khan, Registered Agent, MK Family Limited Partnership dba Jiffy Mart 5, P.O. Box 2852, Georgetown, Texas 78627
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** April 7, 2006 **Date of NOE Relating to this Case:** May 22, 2006 (NOE) **Background Facts:** This was a routine investigation. Eight violations were documented. **WASTE** 1) Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)]. 2) Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, MK Family did not conduct the triennial test [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)]. 3) Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks ("USTs") [30 TEX. ADMIN. CODE § 37.815(a) and (b)]. 4) Failed to ensure that all tanks are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the USTs were not being monitored for releases on a monthly basis [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].	**Total Assessed:** $12,500 **Total Deferred:** $2,500 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $305 (remaining $9,695 due in 35 monthly payments of $277 each) **Site Compliance History Classification:** __ High _X_ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that MK Family has implemented the following corrective measures at the Facility: a. As of May 16, 2006, the TCEQ Austin regional office received documentation showing that MK Family repaired the rectifier, inspected the cathodic protection system for operability and adequacy of protection, and conducted the testing successfully; b. As of May 3, 2006, the TCEQ Austin regional office received documentation of successful tightness testing of the piping associated with the UST system; c. As of May 3, 2006, the TCEQ Austin regional office received documentation of red jacket printouts, verifying all USTs are being monitored on a monthly basis; d. As of June 15, 2006, the TCEQ DFW regional office received verification of a copy of the current financial assurance coverage for all USTs at the Facility; e. As of August 4, 2006, the TCEQ DFW regional office received verification that the Facility submitted a UST registration & self-certification form to the TCEQ and was issued a delivery certificate; and f. As of August 7, 2006, the TCEQ DFW regional office received verification that the required UST records are being maintained at the Facility. **Ordering Provisions:** 2) The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs;

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
5) Failed to conduct proper release detection for the product piping associated with the UST system. Specifically, the underground product piping was not being monitored [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)]. 6) Failed to conduct inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day [30 TEX. ADMIN. CODE § 334.48(c)]. 7) Failed to renew a delivery certificate by timely and proper submission of a new UST registration & self-certification form to the agency at least 30 days before the expiration date of the delivery certificate. Specifically, the delivery certificate expired on March 31, 2005 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii)]. 8) Failed to have the required UST records maintained, accessible, and available for the inspection upon request by agency personnel. Specifically, there were no UST records available for review [30 TEX. ADMIN. CODE § 334.10(b)].		b. Within 15 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	30-May-2006				
PCW	02-Jun-2006	Screening	31-May-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	MK Family Limited Partnership dba Jiffy Mart 5		
Reg. Ent. Ref. No.	RN101378248		
Facility/Site Region	11-Austin	Major/Minor Source	Minor Source

CASE INFORMATION			
Enf./Case ID No.	29569	No. of Violations	6
Docket No.	2006-0628-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $12,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

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

Notes: No adjustment due to compliance history.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction *Subtotal 5* $0

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

Notes: The respondent does not meet the good faith criteria.

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

**Capped at the Total EB $ Amount*

Total EB Amounts	$3,332
Approx. Cost of Compliance	$5,850

SUM OF SUBTOTALS 1-7 Final Subtotal $12,500

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $12,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $12,500

DEFERRAL 20% Reduction Adjustment -$2,500

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $10,000

PCW

Screening Date 31-May-2006 **Docket No.** 2006-0628-PST-E

Respondent MK Family Limited Partnership dba Jiffy Mart 5

Policy Revision 2 (September 2002)

Case ID No. 29569

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101378248

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

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 *(number of NOVs meeting criteria)*	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which violations were disclosed)*	0	0%
		Please Enter Yes or No	
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 due to compliance history.

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

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date	31-May-2006
Docket No.	2006-0628-PST-E
Respondent	MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.	29569
Reg. Ent. Reference No.	RN101378248
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Judy Kluge
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin Code § 334.49(c)(2)(C) and (c)(4)
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(d)
Violation Description	Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, MK Family did not conduct the triennial test.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which may exceed levels that are protective of human health and environmental receptors.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended from the date of the investigation April 7, 2006, to the May 16, 2006 compliance date.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,204

Statutory Limit Test

Violation Final Penalty Total $2,500

This violation Final Assessed Penalty (adjusted for limits) $2,500

Economic Benefit Worksheet

Respondent: MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.: 29569
Reg. Ent. Reference No.: RN101378248
Media [Statute]: Petroleum Storage Tank
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$500	07-Apr-2006	16-May-2006	0.1	$0	$4	$4
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The delayed cost includes the estimated amount to properly inspect the rectifier and other components of the cathodic protection system. The date required is the date of investigation and the final date is the date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)	$1,000	07-Apr-2003	16-May-2006	4.0	$200	$1,000	$1,200

Notes for AVOIDED costs: Avoided cost for completing the triennial test. The date required is three years before the investigation date and the final date is the compliance date.

Approx. Cost of Compliance: $1,500

TOTAL: $1,204

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date	31-May-2006
Docket No.	2006-0628-PST-E
Respondent	MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.	29569
Reg. Ent. Reference No.	RN101378248
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Judy Kluge
Violation Number	2
Primary Rule Cite(s)	30 Tex. Admin. Code § 37.815(a) and (b)
Secondary Rule Cite(s)	
Violation Description	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 3

mark only one
use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $3,000

Three single events are recommended (one per tank) based upon the investigation conducted on April 7, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $2,048

Statutory Limit Test

Violation Final Penalty Total $3,000

This violation Final Assessed Penalty (adjusted for limits) $3,000

Economic Benefit Worksheet

Respondent	MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.	29569
Reg. Ent. Reference No.	RN101378248
Media [Statute]	Petroleum Storage Tank
Violation No.	2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs							
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]	$1,950	07-Apr-2005	07-Apr-2006	1.0	$98	$1,950	$2,048
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs	The avoided cost includes the estimated cost to provide financial assurance for the three petroleum USTs ($650 per tank), for the twelve month period preceding the investigation date.						

Approx. Cost of Compliance: $1,950

TOTAL: $2,048

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	31-May-2006
Docket No.	2006-0628-PST-E
Respondent	MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.	29569
Reg. Ent. Reference No.	RN101378248
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Judy Kluge
Violation Number	3
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A) and 334.50(b)(2)
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(a) and (c)(1)
Violation Description	Failed to ensure that all tanks are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the USTs were not being monitored for releases on a monthly basis. Failed to conduct proper release detection for the product piping associated with the UST system. Specifically, the underground product piping was not being monitored.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Failing to monitor the UST system for releases could expose human health or the environment to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

mark only one use a small x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One monthly event is recommended from the investigation date of April 7, 2006 to the compliance date of May 3, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $4

Statutory Limit Test

Violation Final Penalty Total $2,500

This violation Final Assessed Penalty (adjusted for limits) $2,500

Economic Benefit Worksheet

Respondent: MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.: 29569
Reg. Ent. Reference No.: RN101378248
Media [Statute]: Petroleum Storage Tank
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Piping Tightness Tests	$600	07-Apr-2006	03-May-2006	0.1	$2	n/a	$2
Record Keeping System				0.0	$0	n/a	$0
Monitoring	$600	07-Apr-2006	03-May-2006	0.1	$2	n/a	$2
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to perform monthly monitoring of the UST system. The date required is the date of the investigation and the final date is the date of compliance. Estimated cost to conduct the piping tightness tests for the UST system. The date required is the date of the investigation and the final date is the date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $1,200

TOTAL: $4

PCW

Policy Revision 2 (September 2002)

PCW Revision May 19, 2005

Screening Date 31-May-2006 **Docket No.** 2006-0628-PST-E

Respondent MK Family Limited Partnership dba Jiffy Mart 5

Case ID No. 29569

Reg. Ent. Reference No. RN101378248

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 4

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

Secondary Rule Cite(s)

Violation Description Failure to conduct inventory control procedures for all USTs involved in the retail sale of petroleum substances uses as motor fuel each operating day.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential	x		

OR

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment could be exposed to significant amounts of contaminants which may exceed levels that are protective of human health and environmental receptors.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events 1

mark only one use a small x	
daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quaterly event is recommended from the investigation date of April 7, 2006 to the screening date of May 31, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $8

Statutory Limit Test

Violation Final Penalty Total $2,500

This violation Final Assessed Penalty (adjusted for limits) $2,500

Economic Benefit Worksheet

Respondent MK Family Limited Partnership dba Jiffy Mart 5
Case ID No. 29569
Reg. Ent. Reference No. RN101378248
Media [Statute] Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$200	07-Apr-2006	01-Feb-2007	0.8	$8	n/a	$8
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost to conduct inventory control for all USTs. The date required is the date of investigation and the final date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs

Approx. Cost of Compliance $200

TOTAL $8

PCW

Screening Date	31-May-2006
Docket No.	2006-0628-PST-E
Respondent	MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.	29569
Reg. Ent. Reference No.	RN101378248
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Judy Kluge

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Violation Number	5
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)
Secondary Rule Cite(s)	
Violation Description	Failed to renew a delivery certificate by timely and proper submission of a new UST registration & self-certification form to the agency at least 30 days before the expiration date of the delivery certificate. Specifically the delivery certificated expired on March 31, 2005.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: The respondent failed to comply with 100% of the rule requirement.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 1

mark only one use a small x	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended based on the investigation date of April 7, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $48

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent	MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.	29569
Reg. Ent. Reference No.	RN101378248
Media [Statute]	Petroleum Storage Tank
Violation No.	5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs	$500	01-Mar-2005	01-Feb-2007	1.9	$48	n/a	$48
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: The delayed cost includes the estimated amount required to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form. Date required is 30 days before the expiration date. Final date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $500

TOTAL: $48

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	31-May-2006
Docket No.	2006-0628-PST-E
Respondent	MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.	29569
Reg. Ent. Reference No.	RN101378248
Media [Statute]	Petroleum Storage Tank
Enf. Coordinator	Judy Kluge
Violation Number	6
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.10(b)
Secondary Rule Cite(s)	
Violation Description	Failed to have the required UST records maintained, readily accessible, and available for the inspection upon request by agency personnel. Specifically, there were no UST records available for review.

Base Penalty $10,000

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

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events: 1

mark only one use a small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,000

One single event is recommended based on the investigation date of April 7, 2006.

Economic Benefit (EB) for this violation

Estimated EB Amount $21

Statutory Limit Test

Violation Final Penalty Total $1,000

This violation Final Assessed Penalty (adjusted for limits) $1,000

Economic Benefit Worksheet

Respondent	MK Family Limited Partnership dba Jiffy Mart 5
Case ID No.	29569
Reg. Ent. Reference No.	RN101378248
Media [Statute]	Petroleum Storage Tank
Violation No.	6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$500	07-Apr-2006	01-Feb-2007	0.8	$21	n/a	$21
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	The delayed cost includes the estimated amount required to maintain UST records. The date required is the date of investigation and the final date is the estimated date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance	$500	TOTAL	$21

Compliance History

Customer/Respondent/Owner-Operator:	CN601602188	M K Family Limited Partnership	Classification: AVERAGE	Rating: 7.52
Regulated Entity:	RN101378248	JIFFY MART 5	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	16751	
	EDWARDS AQUIFER	REGISTRATION	11-95022801	
Location:	101 LUTHER DR, GEORGETOWN, TX, 78628		Rating Date: September 01 05	Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	May 30, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	May 30, 2001 to May 30, 2006			

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

Name: Joseph Daley Phone: 817-588-5928

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 of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. if Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, 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 05/22/2006 (462173)

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

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
MK FAMILY LIMITED	§	**TEXAS COMMISSION ON**
PARTNERSHIP DBA JIFFY MART 5	§	
RN101378248	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-0628-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MK Family Limited Partnership dba Jiffy Mart 5 ("MK Family") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and MK Family appear before the Commission and together stipulate that:

1. MK Family owns and operates a convenience store with retail sales of gasoline at 101 Luther Drive in Georgetown, Williamson County, Texas (the "Facility").

2. MK Family's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.

3. The Commission and MK Family agree that the Commission has jurisdiction to enter this Agreed Order, and that MK Family is subject to the Commission's jurisdiction.

4. MK Family received notice of the violations alleged in Section II ("Allegations") on or about May 27, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by MK Family of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twelve Thousand Five Hundred Dollars ($12,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). MK Family has paid Three Hundred Five Dollars ($305) of the administrative penalty and Two Thousand Five Hundred Dollars ($2,500) is deferred contingent upon MK Family's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If MK Family fails to timely and satisfactorily

comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require MK Family to pay all or part of the deferred penalty.

The remaining amount of Nine Thousand Six Hundred Ninety-Five Dollars ($9,695) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Seventy-Seven Dollars ($277) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If MK Family fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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, the failure of MK Family to meet the payment schedule of this Agreed Order constitutes the failure by MK Family to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and MK Family have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that MK Family has implemented the following corrective measures at the Facility:

   a. As of May 16, 2006, the TCEQ Austin regional office received documentation showing that MK Family repaired the rectifier, inspected the cathodic protection system for operability and adequacy of protection, and conducted the testing successfully;

   b. As of May 3, 2006, the TCEQ Austin regional office received documentation of successful tightness testing of the piping associated with the UST system;

   c. As of May 3, 2006, the TCEQ Austin regional office received documentation of red jacket printouts, verifying all USTs are being monitored on a monthly basis;

   d. As of June 15, 2006, the TCEQ Dallas/Fort Worth regional office received verification of a copy of the current financial assurance coverage for all USTs at the Facility;

   e. As of August 4, 2006, the TCEQ Dallas/Fort Worth regional office received verification that the Facility submitted a UST registration & self-certification form to the TCEQ and was issued a delivery certificate; and

   f. As of August 7, 2006, the TCEQ Dallas/Fort Worth regional office received verification that the required UST records are being maintained at the Facility.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the

Executive Director determines that MK Family has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, MK Family is alleged to have:

1. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on April 7, 2006.

2. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on April 7, 2006. Specifically, MK Family did not conduct the triennial test.

3. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on April 7, 2006.

4. Failed to ensure that all tanks are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on April 7, 2006. Specifically, the USTs were not being monitored for releases on a monthly basis.

5. Failed to conduct proper release detection for the product piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on April 7, 2006. Specifically, the underground product piping was not being monitored.

6. Failed to conduct inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on April 7, 2006.

7. Failed to renew a delivery certificate by timely and proper submission of a new UST registration & self-certification form to the agency at least 30 days before the expiration date of the delivery certificate, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and 334.8(c)(5)(B)(ii), as documented during an investigation conducted on April 7, 2006. Specifically, the delivery certificated expired on March 31, 2005.

8. Failed to have the required UST records maintained, accessible, and available for the inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on April 7, 2006. Specifically, there were no UST records available for review.

III. DENIALS

MK Family generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that MK Family pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and MK Family's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MK Family Limited Partnership dba Jiffy Mart 5, Docket No. 2006-0628-PST-E" to:

   Financial Administration Division, Revenues Section
   Attention: Cashier's Office, MC 214
   Texas Commission on Environmental Quality
   P.O. Box 13088
   Austin, Texas 78711-3088

2. It is further ordered that MK Family shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order, begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.

   b. Within 15 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

      The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
1921 Cedar Bend Drive, Suite 150
Austin, Texas 78758-5336

3. The provisions of this Agreed Order shall apply to and be binding upon MK Family. MK Family is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If MK Family 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, MK Family's failure to comply is not a violation of this Agreed Order. MK Family shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. MK Family shall notify the Executive Director within seven days after MK Family becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by MK Family shall be made in writing to the Executive Director. Extensions are not effective until MK Family receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against MK Family in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to MK Family, or three days after the date on which the Commission mails notice of the Order to MK Family, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

Date 2/8/07

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Mohammad Khan

Signature

Date JAN - 27 - 07

MOHAMMAD KHAN

Name (Printed or typed)
Authorized Representative of
MK Family Limited Partnership dba Jiffy Mart 5

Title PRESIDENT

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