

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2006-1873-PST-E    **TCEQ ID:** RN102586658    **CASE NO.:** 31539  
**RESPONDENT NAME:** K & S Mart, Inc. dba Glad Mart

**ORDER TYPE:**

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

**SITE WHERE VIOLATION(S) OCCURRED:** Glad Mart, 4400 Southwest Boulevard, Fort Worth, Tarrant County

**TYPE OF OPERATION:** Convenience store with retail sales of gasoline

**SMALL BUSINESS:**     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 March 19, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Patricia Chawla, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-0739; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**Local Program Investigator:** Mr. Anthony Williams, Environmental Investigator, The City of Fort Worth Environmental Management Department, 4200 South Freeway, Suite 552, Fort Worth, Texas 76115-1406

**Respondent:** Mr. Karim Hemani, President and Registered Agent, K & S Mart, Inc. dba Glad Mart, 1420 Grimes Drive, Carrollton, Texas 75010

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 30, 2006</p> <p><b>Date of NOE Relating to this Case:</b> October 16, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation. Three violations were documented.</p> <p><b>WASTE</b></p> <p>1) 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(s), and free of defects that would impair the effectiveness of the system. Specifically, the investigator documented torn vapor escape guards at dispenser numbers 1, 2, 3, and 4. Also, nozzles for dispenser numbers 1 and 3 were not approved for use with the Stage II vapor recovery system at the Station [30 TEX. ADMIN. CODE § 115.242(3) and (3)(L) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) 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 pressure performance at least once every 36 months. Specifically, annual testing of the Stage II equipment was not conducted [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>3) Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request. Specifically, Stage II records were not available for review [30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$3,825</p> <p><b>Total Deferred:</b> \$765  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$160 (remaining \$2,900 due in 29 monthly payments of \$100 each)</p> <p><b>Site Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that K &amp; S Mart has implemented the following corrective measures at the Station:</p> <p>a. Replaced the torn vapor escape guards and the nozzles as of September 14, 2006;</p> <p>b. Successfully conducted the required annual testing of the Stage II equipment on October 4, 2006; and</p> <p>c. Submitted all required Stage II records to the TCEQ Dallas/Fort Worth Regional Office on September 14, 2006.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	Assigned	23-Oct-2006	Screening	25-Oct-2006	EPA Due	
	PCW	25-Oct-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	K & S Mart, Inc. dba Glad Mart
Reg. Ent. Ref. No.	RN102586658
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	31539	No. of Violations	3
Docket No.	2006-1873-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Patricia Chawla
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$4,500</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>	10% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$450</b>
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Notes: Enhancement for two NOVs with the same or similar violations.

<b>Culpability</b>	No	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</b>	25% Reduction	<b>Subtotal 5</b>	<b>-\$1,125</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with a small x)

Notes: The respondent came into compliance on October 4, 2006.

<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$1,103	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,100	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$3,825</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	<b>\$3,825</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$3,825</b>
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<b>DEFERRAL</b>	20% Reduction	<b>Adjustment</b>	<b>-\$765</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$3,060</b>
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<b>Screening Date</b>	25-Oct-2006	<b>Docket No.</b>	2006-1873-PST-E	<b>PCW</b>
<b>Respondent</b>	K & S Mart, Inc. dba Glad Mart		Policy Revision 2 (September 2002)	
<b>Case ID No.</b>	31539	PCW Revision May 19, 2005		
<b>Reg. Ent. Reference No.</b>	RN102586658			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Patricia Chawla			

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	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</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%
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)** 10%

>> Repeat Violator (Subtotal 3)

No  **Adjustment Percentage (Subtotal 3)** 0%

>> Compliance History Person Classification (Subtotal 7)

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

>> Compliance History Summary

**Compliance History Notes** Enhancement for two NOVs with the same or similar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 10%

<b>Screening Date</b>	25-Oct-2006	<b>Docket No.</b>	2006-1873-PST-E	<b>PCW</b>
<b>Respondent</b>	K & S Mart, Inc. dba Glad Mart			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	31539			<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN102586658			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Patricia Chawla			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(3) and 115.242(3)(L)			
<b>Secondary Rule Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	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(s), and free of defects that would impair the effectiveness of the system. Specifically, the investigator documented torn vapor escape guards at dispenser numbers 1, 2, 3, and 4. Also, nozzles for dispenser numbers 1 and 2 were not approved for use with the Stage II vapor recovery system at the Station.			
	<b>Base Penalty</b>	\$10,000		

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

<b>Harm</b>				
<b>Release</b>	Major	Moderate	Minor	
Actual			X	Percent <input type="text" value="10%"/>
Potential				

OR

>> **Programmatic Matrix**

<b>Falsification</b>	Major	Moderate	Minor	
				Percent <input type="text"/>

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or the environment.

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	X
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

**Violation Base Penalty**

One quarterly event is recommended from the August 30, 2006 investigation date to the October 25, 2006 screening date.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$3"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$850"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$850"/>	

### Economic Benefit Worksheet

Respondent: K & S Mart, Inc. dba Glad Mart  
 Case ID No: 31539  
 Reg. Ent. Reference No: RN102586658  
 Media [Statute]: 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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**Delayed Costs**

Equipment	\$1,000	30-Aug-2006	14-Sep-2006	0.0	\$0	\$3	\$3
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: Estimated cost to replace the vapor escape guards and the nozzles. The date required is the investigation date and the final date is the date of compliance.

**Avoided Costs**

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

Disposal				0.0	\$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 \$1,000

**TOTAL** \$3

<b>Screening Date</b>	25-Oct-2006	<b>Docket No.</b>	2006-1873-PST-E	<b>PCW</b>
<b>Respondent</b>	K & S Mart, Inc. dba Glad Mart			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	31539			<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN102586658			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Patricia Chawla			
<b>Violation Number</b>	2			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 115.245(2)			
<b>Secondary Rule Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	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 pressure performance at least once every 36 months. Specifically, annual testing of the Stage II equipment was not conducted.			
		<b>Base Penalty</b>	\$10,000	

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

OR	<b>Harm</b>				Percent
	<b>Release</b>	Major	Moderate	Minor	
	Actual				
	Potential	X			25%

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent

Matrix Notes: Failure to verify proper operation of the Stage II equipment could result in the release of a significant amount of gasoline vapors which would exceed levels that are protective of human health or 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	
	semiannual	
	annual	X
	single event	

Violation Base Penalty: \$2,500

One annual event is recommended for the 12-month period preceding the August 30, 2006 investigation date.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount: \$1,100	Violation Final Penalty Total: \$2,125
This violation Final Assessed Penalty (adjusted for limits): \$2,125	



### Economic Benefit Worksheet

Respondent: K & S Mart, Inc. dba Glad Mart  
 Case ID No.: 31539  
 Reg. Ent. Reference No.: RN102586658  
 Media [Statute]: Petroleum Storage Tank  
 Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**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]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$1,000	30-Aug-2005	04-Oct-2006	2.0	\$100	\$1,000	\$1,100
Notes for AVOIDED costs: Estimated cost for annual testing to verify proper operation of the Stage II equipment. The date required is one year prior to the investigation date and final date is the date of compliance.							

Approx. Cost of Compliance **\$1,000**

**TOTAL \$1,100**



<b>Screening Date</b>	25-Oct-2006	<b>Docket No.</b>	2006-1873-PST-E	<b>PCW</b>
<b>Respondent</b>	K & S Mart, Inc. dba Glad Mart			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	31539			<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN102586658			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Patricia Chawla			
<b>Violation Number</b>	3			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 115.246(7)(A)			
<b>Secondary Rule Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)			
<b>Violation Description</b>	Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request. Specifically, Stage II records were not available for review.			
	<b>Base Penalty</b>	\$10,000		

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

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

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
		x			Percent <input type="text" value="10%"/>
<b>Matrix Notes</b>	100% of the rule requirement was not met.				

**Adjustment** - \$9,000

**Base Penalty Subtotal** \$1,000

**Violation Events**

Number of Violation Events

	daily	<input type="text"/>
	monthly	<input type="text"/>
mark only one	quarterly	<input type="text"/>
use a small x	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	x

**Violation Base Penalty** \$1,000

One single event is recommended based on the investigation conducted on August 30, 2006.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$0"/>	Violation Final Penalty Total <input type="text" value="\$850"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$850"/>	

### Economic Benefit Worksheet

Respondent: K & S Mart, Inc. dba Glad Mart  
 Case ID No.: 31539  
 Reg. Ent. Reference No.: RN102586658  
 Media [Statute]: 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
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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	\$100	30-Aug-2006	14-Sep-2006	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: Estimated cost to maintain Stage II records. The date required is the investigation date and 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 \$100 TOTAL \$0

# Compliance History

Customer/Respondent/Owner-Operator:	CN601565898    K & S Mart, Inc.	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN102586658    GLAD MART	Classification: AVERAGE	Site Rating: 3.00
<hr/>			
ID Number(s):	PETROLEUM STORAGE TANK    REGISTRATION	39372	
<hr/>			
Location:	4400 SOUTHWEST BLVD, FT WORTH, TX, 76116		Rating Date: September 01 06    Repeat Violator: NO
<hr/>			
TCEQ Region:	REGION 04 - DFW METROPLEX		
<hr/>			
Date Compliance History Prepared:	October 23, 2006		
<hr/>			
Agency Decision Requiring Compliance History:	Enforcement		
<hr/>			
Compliance Period:	October 23, 2001 to October 23, 2006		
<hr/>			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Patricia Chawla	Phone:	512-239-0739

## 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?    | Yes                                 |
| 3. If Yes, who is the current owner?                                                         | <u>K &amp; S Mart, Inc.</u>         |
| 4. If Yes, who was/were the prior owner(s)?                                                  | <u>Best Three Bears Corporation</u> |
| 5. When did the change(s) in ownership occur?                                                | <u>06/06/2003</u>                   |

### 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 | 11/12/2002 | (16427)  |  |
| 2 | 10/16/2006 | (511172) |  |
| 3 | 07/28/2004 | (276377) |  |
| 4 | 09/15/2004 | (293316) |  |
| 5 | 06/17/2002 | (2849)   |  |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |                                                                                                                                                                                                                                                                                                                                 |                          |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Date:        | 07/28/2004    (276377)                                                                                                                                                                                                                                                                                                          |                          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.246(6)                                                                                                                                                                                                                                                                                     |                          |
| Description: | Failure to maintain a record of daily inspections according to 115.244 (Inspection Requirements). At the time of the initial investigation and the verbal NOV follow-up investigation, a record of daily inspections was not being maintained. The facility did not record any daily inspections since opening in January 2003  |                          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.248(1)[G]                                                                                                                                                                                                                                                                                  |                          |
| Description: | Failure to ensure at least one facility employee representative receive training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the TCEQ. Failure to make each current and future employee aware of the purpose and correct op |                          |
| Date:        | 06/17/2002    (2849)                                                                                                                                                                                                                                                                                                            |                          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.246(6)                                                                                                                                                                                                                                                                                     |                          |
| Description: | Facility did not have daily inspection records available for investigator to review.                                                                                                                                                                                                                                            |                          |
| Self Report? | NO                                                                                                                                                                                                                                                                                                                              | Classification: Moderate |

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)[G]  
Description: The coaxial hose on Dispenser #4 was broken out just below the nozzle so that the metal mesh was exposed. Investigator could detect a gasoline odor coming from this point.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)[G]  
Description: Current employees have not been trained on the purpose and correct operation of Stage II equipment.

- 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  
K & S MART, INC. DBA GLAD MART  
RN102586658**

§ **BEFORE THE**  
§  
§ **TEXAS COMMISSION ON**  
§  
§ **ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2006-1873-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 K & S Mart, Inc. dba Glad Mart ("K & S Mart") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and K & S Mart appear before the Commission and together stipulate that:

1. K & S Mart owns and operates a convenience store with retail sales of gasoline at 4400 Southwest Boulevard in Fort Worth, Tarrant County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and K & S Mart agree that the Commission has jurisdiction to enter this Agreed Order, and that K & S Mart is subject to the Commission's jurisdiction.
4. K & S Mart received notice of the violations alleged in Section II ("Allegations") on or about October 21, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by K & S Mart of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Eight Hundred Twenty-Five Dollars (\$3,825) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). K & S Mart has paid One Hundred Sixty Dollars (\$160) of the administrative penalty and Seven Hundred Sixty-Five Dollars (\$765) is deferred contingent upon K & S Mart'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 K & S Mart fails to timely



and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require K & S Mart to pay all or part of the deferred penalty.

The remaining amount of Two Thousand Nine Hundred Dollars (\$2,900) of the administrative penalty shall be payable in 29 monthly payments of One Hundred Dollars (\$100) 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 K & S Mart 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 K & S Mart to meet the payment schedule of this Agreed Order constitutes the failure by K & S Mart 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 K & S Mart 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 K & S Mart has implemented the following corrective measures at the Station:
  - a. Replaced the torn vapor escape guards and the nozzles as of September 14, 2006;
  - b. Successfully conducted the required annual testing of the Stage II equipment on October 4, 2006; and
  - c. Submitted all required Stage II records to the TCEQ Dallas/Fort Worth Regional Office on September 14, 2006.
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 K & S Mart 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.



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## II. ALLEGATIONS

As owner and operator of the Station, K & S Mart is alleged to have:

1. 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(s), and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and (3)(L) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 30, 2006. Specifically, the investigator documented torn vapor escape guards at dispenser numbers 1, 2, 3, and 4. Also, nozzles for dispenser numbers 1 and 3 were not approved for use with the Stage II vapor recovery system at the Station.
2. Failed to verify proper operation of the Stage II equipment at least once every 12 months, and the Stage II vapor space manifolding and dynamic pressure performance at least once every 36 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 30, 2006. Specifically, annual testing of the Stage II equipment was not conducted.
3. Failed to maintain records on-site at the Station ordinarily manned during business hours, and make immediately available for review upon request, in violation of 30 TEX. ADMIN. CODE § 115.246(7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 30, 2006. Specifically, Stage II records were not available for review.

## III. DENIALS

K & S Mart generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that K & S Mart pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and K & S Mart'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: K & S Mart, Inc. dba Glad Mart, Docket No. 2006-1873-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. The provisions of this Agreed Order shall apply to and be binding upon K & S Mart. K & S Mart is

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ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

3. If K & S Mart 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, K & S Mart's failure to comply is not a violation of this Agreed Order. K & S Mart shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. K & S Mart shall notify the Executive Director within seven days after K & S Mart becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. 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 K & S Mart shall be made in writing to the Executive Director. Extensions are not effective until K & S Mart receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against K & S Mart 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.
6. 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.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to K & S Mart, or three days after the date on which the Commission mails notice of the Order to K & S Mart, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

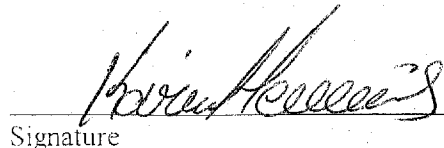
3/19/07  
\_\_\_\_\_  
Date

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.

  
\_\_\_\_\_  
Signature

12/24/06  
\_\_\_\_\_  
Date

Kevin Hemani  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
K & S Mart, Inc. dba Glad Mart

president  
\_\_\_\_\_  
Title

**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.

