# 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

Page 1 of 2

### **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: Glad Mart, 4400 Southwest Boulevard, Fort Worth, Tarrant 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 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

## RESPONDENT'S NAME: K & S Mart, Inc. dba Glad Mart DOCKET NO.: 2006-1873-PST-E

#### VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ComplaintX Routine Enforcement Follow-up Records Review	Total Assessed: \$3,825	Corrective Actions Taken:
Date of Complaint Relating to this Case: None	Total Deferred: \$765 X Expedited Settlement	The Executive Director recognizes that K & S Mart has implemented the following corrective measures at the Station:
Date of Investigation Relating to this Case: August 30, 2006	Financial Inability to Pay	a. Replaced the torn vapor escape guards and the nozzles as of September 14, 2006;
Date of NOE Relating to this Case: October 16, 2006 (NOE)	SEP Conditional Offset: \$0	b. Successfully conducted the required annual testing of the Stage II
Background Facts: This was a routine investigation. Three violations were documented.	Total Paid (Due) to General Revenue: \$160 (remaining \$2,900 due in 29 monthly payments of \$100 each)	equipment on October 4, 2006; and
WASTE	Site Compliance History Classification:HighX_AvgPoor	c. Submitted all required Stage II records to the TCEQ Dallas/Fort Worth Regional Office on September 14, 2006.
1) Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer	Person Compliance History Classification:High _X_AvgPoor	
and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness	Major Source: Yes X No	
of the system. Specifically, the investigator documented torn vapor escape guards at dispenser numbers 1, 2, 3, and 4. Also,	Applicable Penalty Policy: September 2002	
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 &		
SAFETY CODE § 382-085(b)].	a for a second	
2) Failed to verify proper operation of the Stage II equipment at least once every 12 months, and the Stage II vapor space	$   _{\mathcal{L}_{\infty}} =    _{\mathcal{L}_{\infty}} +     _{\mathcal{L}_{\infty}} +     _{\mathcal{L}_{\infty}} +     _{\mathcal{L}_{\infty}} +                                   $	
manifolding and dynamic pressure performance at least once every 36 months. Specifically, annual testing of the Stage II	Algendet in the second s	
equipment was not conducted [30 TEX. ADMN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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 & SAFETY CODE § 382.085(b)].	an a	
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	23-Oct-2006 25-Oct-2006 Screening	25-Oct-2006 E	PA Due		
	K & S Mart, Inc. dba Glad M	art			
Reg. Ent. Ref. No. Facility/Site Region	4-Dallas/Fort Worth	<u></u>	Major/Minor Source	Minor Source	<
Media Program(s)	31539 2006-1873-PST-E Petroleum Storage Tank		No. of Violations Order Type Enf. Coordinator	1660 Patricia Chawla	
Multi-Media Admin. Penalty \$ Li		Maximum \$1	EC's Team	Enforcement Team 7	
· · · · · · · · · · · · · · · · · · ·	Pena	Ity Calculation	Section	· · · · · · · · · · · · · · · · · · ·	· · · · · · · · · · · · · · · · · · ·
		•	*****	o www.rd	¢4 500
TOTAL BASE PEN	NALTY (Sum of violatio	n base penalties		Subtotal 1	\$4,500
	+/-) TO SUBTOTAL 1 obtained by multiplying the Total Bas	e Penalty (Subtotal 1) by the	indicated percentage.		
Compliance I	the property of the product of the test that a second state of the test state of the test of the second state of the test of test	<b>10%</b> ⊫nhan	sement Sub1	otals 2, 3, & 7	\$450
Notes	Enhancement for two N	IOVs with the same o	r similar violations.		
Culpability	No	0% Enhan	cement	Subtotal 4	\$0
Notes		oes not meet the culp			
Good Faith E	10777777777777777777777777	25% Reduc	tion	Subtotal 5	-\$1,125
Extraordinary					
Ordinary N/A	X (mark with a sm	all x)		1	
Notes	The respondent cam	e into compliance on	October 4, 2006.		
Economic Be		0% Enhar	cement*	Subtotal 6	\$0
Approx. C	Total EB Amounts \$1,10 Cost of Compliance \$2,10		ped at the Total EB \$ Amount		
SUM OF SUBTOT				Final Subtotal	\$3,825
				Adjustment	\$0
	S AS JUSTICE MAY RE		.g30 for -30%.)		Ψ0
· Notes					
			Final P	enalty Amount	\$3,825
STATUTORY LIM	IIT ADJUSTMENT		Final Ass	essed Penalty	\$3,825
DEFERRAL			20% Reduction	Adjustment	-\$765
	d Penalty by the indicted percentage				
Notes	befferral of	fered for expedited se	tuement.		
PAYABLE PENA	LTY				\$3,060

		ing Date 25-Oct-2006 Docket No. 2006-1873-PST-E pondent K & S Mart, Inc. dba Glad Mart	DAllan B	1	
		se ID No. 31539	. •		
Reg		ence No. RN102586658		199 Novision 1	ay 13, 2005
	and the state of the second	[Statute] Petroleum Storage Tank			mber 2002) ay 19, 2005
	Enf. Co	ordinator Patricia Chawla		en e	
				nan ten	
		Compliance History Worksheet	in the test	an an Arran Arran	
>> C	ompliance Hi	story Site Enhancement (Subtotal 2)	pe Tank  hpliance History Worksheet httotal 2)  Finiar volations as those in the current of NOVs meeting criteria)  Int orders containing a denial of liability of NOVs meeting criteria  Intorders containing a denial of liability of O% official consent decrees containing of O% official consent decrees containing of O% official consent decrees containing official consent decrees containing official consent decrees without a denial official of		
		1	Number Here	Δdiust	
		Written NOVs with same or similar violations as those in the current	Transformer	free of the second s	si sa Na
	NOVs	enforcement action (number of NOVs meeting criteria) Other written NOVs		باستيدة ببالدسية المستسنية	
		Any present final enforcement endour contribute a doubt of lightly		The second se	ting in a s
		(number of orders meeting criteria)		0%	
	Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal	24.000000000000000000000000000000000000		
	·	government, or any final prohibitory emergency orders issued by the	0	0%	
		commission			• •
	Judaments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of	0	0%	
	and	judgements or consent decrees meeting criteria)	Č.	• • •	contember 2002 on May 19, 200 2) 10% 3) 0% 7) 0%
1)	Consent Decrees	Any adjudicated final court judgments and default judgments, or		۵ò/	
	Deciees		U i	0%	) 0%
	Convictions	Any criminal convictions of this state or the federal government (number	0	0%	
	Emissions	of counts) Chronic excessive emissions events (number of events)	E		
		Letters notifying the executive director of an intended audit conducted		0 70	
1.		under the Texas Environmental, Health, and Safety Audit Privilege Act,	0	0%	
	Audits	74th Legislature, 1995 (number of audits for which notices were Disclosures of violations under the Texas Environmental, Health, and	-		12
		Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for	0	0%	183
		which violations were disclosed)	tor Vet or No		
	[	Environmental management systems in place for one year or more		0%	
		Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%	
	Other	Participation in a voluntary pollution reduction program	No	0%	
		Early compliance with, or offer of a product that meets future state or			
	.i	federal government environmental requirements	<u> Italia in an an</u>	L	• •
		Adjustment Percer	ntage (Su	btotal 2)	10%
>> R	epeat Violato	r (Subtotal 3)			
	No	Adjustment Percer	ntage (Su	btotal 3)	0%
>> C	ompliance Hi	story Person Classification (Subtotal 7)			
	Average		ntario (Su	htotal 71	ሰ%
			nage (Su		U /0
22 0		story Summary		nannannatanna stad	
	Compliance History Notes		tions.		
	natory notes		nandarangaran ar	, and a subscription of the second	an an an a
		Total Adjustment Percentage (Sub	totals 2.	3. & 7)	10%
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Page 3 of 8	8 03/07/07	H:\Agreed Orders	K&SMartInc-GladMart\K&	S Mart_PCW.wb3	
Screening Date	25-Oct-2006	Do	cket No. 2006-1873-PST	-E	PCW
that Mile a Manager and a state of the	- 14 C	nc. dba Glad Mart		Policy Revisit	on 2 (September 2002)
Case ID No				PCW	Revision May 19, 2005
Reg. Ent. Reference No					
Media [Statute]					
Enf. Coordinator Violation Number	<sup>2</sup>	vla			
		Tex Admin Code	e § 115.242(3) and 115.242	(3)(L)	
Primary Rule Cite(s)			Safety Code § 382.085(b)		
Secondary Rule Cite(s)					
Violation Description	condition California A that would investigator c 1, 2, 3, and	n, as specified by t nir Resources Boa d impair the effect documented torn v d 4. Also, nozzles	vapor recovery system in p he manufacturer and/or any rd Executive Order(s), and f iveness of the system. Spe /apor escape guards at disp for dispenser numbers 1 and ge II vapor recovery system	/ applicable ree of defects cifically, the enser numbers nd 2 were not	
				Base Penalty	\$10,000
Environmental De	an arthu an d I	Luman Haalth	Matrix		- 4
>> Environmental, Pr		Harm	INGUIA		-
Release	€ <u>Major M</u>	loderate Minor	-		
OR Actua		X	Percent	10%	
Potentia	.1			1070	
>> Programmatic Ma	trix				
Falsificatio		loderate Minor			
			Percent		
Matrix Notes Huma	of pollutants w	environment has hich would not ex nan health or the (		veof	
		-	Adjust	ment _\$9,000	
			Base P	enalty Subtotal	\$1,000
Violation Events					
Number of Viola	ation Events				
mark only or use a small	in the second		Violatio	on Base Penalty	\$1,000
	e quarterly eve investigation da	nt is recommende ate to the October	ed from the August 30, 2006 25, 2006 screening date.		
Economic Benefi	t (EB) for thi	is violation	Statutory L	imit Test	n harry transmission of the second
Estimated	EB Amount	\$3	Violation Fir	al Penalty Total	\$850
		This violation Fi	nal Assessed Penalty (adj	usted for limits)	\$850

Page 4 of 8	03/07/07	H:\Agreed Ord	lers\K&SMartIn	c-Glad	Mart\K&S Mart	_PCW.wb3	
	Ec	onomic B	enefit Wor	kshe	bet		
Respondent	001-01-11-12-02-02-02-02-02-02-02-02-02-02-02-02-02	c. dba Glad Ma			E TA TRIBUNI A PANYAN ANA ANA ANA ANA ANA ANA ANA ANA AN		
Case ID No.							
Reg. Ent. Reference No.	RN102586658						land and the second
Media [Statute]		rage Tank			and a stand of the	Percent	Years of
Violation No.	1	•					Depreciation
						5.0	15
11.000	ltem	Date	Pinal	Yrs	Interest	Onetime	EB
Item	Cost	Required	Date		Saved	Costs	Amount
Description	No commas or \$		1		· /	ា ទៅជា ពុងលើ ប	1. 186 Start
Delayed Costs					, 	all a constraint A	
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	te transfer de la		Constanting and	0,0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling		and to the Report of the Report	ananananan kananan kanan k	0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	<u>\$0</u>
Other (as needed)				0,0	\$0	n/a	<b>\$</b> 0 `
Notes for DELAYED costs	Estimated cos				and the nozzle		equired is the
		investigation	date and the fir	nal date	is the date of	compliance.	
13			na n	hahatatapapahanne		11 - 11 - 11 - 11 - 11 - 11 - 11 - 11	been a second
	AND THE OWNER OF THE OWNER OWNER	Pere				31 i - 164	
Avoided Costs	ANN	JALIZE [1] avoide	d costs before en	en sou de la compañía	em (except for one		ter an an a start of the second s
Disposal	a ana ang ang ang ang ang ang ang ang an		anania ana ana	0.0	<u>\$0</u>	\$0	<u>\$0</u>
Personnel				0.0	<u>\$0</u>	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0 \$0	\$0	\$0
Supplies/equipment Financial Assurance [2]				0.0	\$0 \$0	\$0 \$0	\$0 \$0
ONE-TIME avoided costs [3]	una na nanima na mari			0.0		<del>ع</del> 0 \$0	\$0 \$0
ONC-TIME avoided costs [5] Other (as needed)				0.0	\$0 \$0		\$0
			Linning and a second	principalite	sinnananan Kirda		
Notes for AVOIDED costs			· a . · .				
				inata canate e nitera			(hereas and a second
Approx. Cost of Compliance	\$1,000				l	TOTAL	\$3
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Page 5 of 8	03/07/07	H:\Agree	d Orders\K&	SMartInc-C	GladMart∖K&S Ma	rt_PCW.wb3	
Screening Date	25-Oct-2006		Docke	et No. 200	06-1873-PST <b>-</b> E		PCW
Respondent		inc. dba Gl	ad Mart			Policy Revis	ion 2 (September 2002)
Case ID No.						РСИ	Revision May 19, 2005
Reg. Ent. Reference No.							
Media [Statute]		-	k				
Enf. Coordinator Violation Number		wla					
Primary Rule Cite(s)		30	Tex. Admin.	Code § 11	5.245(2)		
Secondary Rule Cite(s)			lealth & Saf				
Violation Description	every 12 mo pressure per	erify proper onths, and formance	operation o the Stage II at least once	of the Stage vapor space e every 36 r	Il equipment at le e manifolding and months. Specifica as not conducted.	d dynamic 📗	
					Ba	se Penalty	\$10,000
>> Environmental, Pro	operty and	Human Harm	Health Ma	atríx			
Release	Major I	Moderate	Minor				
OR Actual Potential	X			Р	ercent 25%	2	
>> Programmatic Mat	rix						
Falsification		Moderate	Minor			****	
				P	ercent		
Matrix Notes the release	e of a signific	cant amour	nt of gasoling	e vapors wł	ent could result in tich would exceed ental receptors.		
					Adjustmen	<b>t</b> -\$7,500	
					Base Penal	ty Subtotal	\$2,500
Violation Events							
Number of Viola	tion Events [	1					
mark only one use a small y					Violation Ba	ase Penalty[	\$2,500
One ann	ual event is ro Au	ecommend gust 30, 20	ed for the 1: 006 investiga	2-month pe ation date.	riod preceding the	2	
Economic Benefit	(EB) for th	nis violat	ion	S	tatutory Limit	Test	
Estimated E	EB Amount	\$1,100		١	/iolation Final Pe	enalty Total	\$2,125
		This viol	ation Final	Assessed	Penalty (adjuste	d for limits)	\$2,125

Page 6 of	f 8 03/07/07 H:\Agreed Orders\K	and a second		
	Economic Benef	it Worksheet		
Responden Case ID No	t K & S Mart, Inc. dba Glad Mart	No second second	a Article (Construction) Records (Construction)	
Reg. Ent. Reference No				
Media [Statute	Petroleum Storage Tank			rs of
Violation No	6.2		Interest Depre	ciation 15
		inal Yrs Inte	hannan minakan manakan kanakan	3B
ltem Description	Cost Required I No commas or \$	Date Sav	ved Costs Am	ount
			(a) ta o caractiaquera.	1.155
Delayed Cost	Provide the Approximation Approximation of the Approximation and the Approximation of the	0.0	\$0 \$0	¢o
Equipmer Building		0.0	\$0 \$0 \$0	\$0 \$0
Other (as needed	<ul> <li>Reserve the second se Second second se</li></ul>	0.0	\$0 \$0	\$0
Engineering/constructio	function and a second	0.0	\$0 \$0 \$0 n/a	\$0 \$0
Record Keeping Syster		0.0	\$0 n/a	\$0
Training/Samplin Remediation/Dispose		0.0	\$0 n/a \$0 n/a	\$0 \$0
Permit Cost	s	0.0	\$0 n/a	\$0
Other (as needed		0.0]	\$0 n/a	\$0
Notes for DELAYED cost	<b>is</b> (1)		$\mathbf{G}_{\mathbf{G}}$	
		******		linear an
Avoided Cost	S ANNUALIZE [1] avoided costs	before entering item (exc	ept for one-time avoided costs)	
Disposa		0.0	\$0 \$0	\$0
Personne	Provide a statistic statistic statistic statistics of from a statistical statistical statistical for statistical statistics of the statist	0.0	\$0 \$0	\$0 \$0
Inspection/Deporting/Samplin	- Contraction of the second se		\$01	
Inspection/Reporting/Samplin Supplies/equipmen	Construction of the second	0.0	\$0 \$0 \$0 \$0	\$0
Supplies/equipmen Financial Assurance [2	nt Deserved Colored and the second states of the second second second second second second second second second	0.0	\$0 \$0 \$0 \$0	\$0 \$0
Supplies/equipmen	nt Received and Re	0.0 0.0 ct-2006 2.0	\$0 \$0 \$0 \$0 \$0 \$0 \$100 \$1,000	\$0 \$0 \$0 \$1,100
Supplies/equipmer Financial Assurance [2 ONE-TIME avoided costs [3 Other (as needed	t 2 3 3 4 5 5 5 5 5 5 5 5 5 5 5 5 5	0.0 0.0 0.0 ct-2006 2.0 to verity proper operat	\$0 \$0 \$0 \$0 \$0 \$0 \$100 \$1,000 on of the Stage II equipment	\$0 \$0 \$0 \$1,100 . The
Supplies/equipmen Financial Assurance [2 ONE-TIME avoided costs [3	nt 2] 3] 1) \$1,000 30-Aug-2005 04-O Estimated cost for annual testing	0.0 0.0 0.0 ct-2006 2.0 to verity proper operat	\$0 \$0 \$0 \$0 \$0 \$0 \$100 \$1,000 on of the Stage II equipment	\$0 \$0 \$0 \$1,100 . The
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Supplies/equipmer Financial Assurance [2 ONE-TIME avoided costs [3 Other (as needed Notes for AVOIDED cost	t 2 3 3 4 5 5 5 5 5 5 5 5 5 5 5 5 5	0.0 0.0 ct-2006 2.0 to verity proper operat	\$0 \$0 \$0 \$0 \$0 \$0 \$100 \$1,000 on of the Stage II equipment ate and final date is the date	\$0 \$0 \$0 \$1,100 ; The of
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Supplies/equipmer Financial Assurance [2 ONE-TIME avoided costs [3 Other (as needed Notes for AVOIDED cost	t 2 3 3 4 5 5 5 5 5 5 5 5 5 5 5 5 5	0.0 0.0 ct-2006 2.0 to verity proper operat	\$0 \$0 \$0 \$0 \$0 \$0 \$100 \$1,000 on of the Stage II equipment ate and final date is the date TOTAL	\$0 \$0 \$0 \$1,100 51
Supplies/equipmer Financial Assurance [2 ONE-TIME avoided costs [3 Other (as needed Notes for AVOIDED cost	t 2 3 3 4 5 5 5 5 5 5 5 5 5 5 5 5 5	0.0 0.0 ct-2006 2.0 to verity proper operat	\$0 \$0 \$0 \$0 \$0 \$0 \$100 \$1,000 on of the Stage II equipment ate and final date is the date TOTAL	\$0 \$0 \$0 \$1,100 51
Supplies/equipmer Financial Assurance [2 ONE-TIME avoided costs [3 Other (as needed Notes for AVOIDED cost	st st st st st st st st st st	0.0 0.0 ct-2006 2.0 to verify proper operat to the Investigation d compliance;	\$0 \$0 \$0 \$0 \$100 \$1,000 on of the Stage II equipment ate and final date is the date TOTAL	\$0 \$0 \$1,100 The of \$1,100
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Page 7 of 8	03/07/07	H:\Agreed Orders\K	&SMartInc-GladMart\K&S Mart	_PCW.wb3
Screening Date	25-Oct-2006	Doc	<b>(et No.</b> 2006-1873-PST-E	PCW
Respondent	K & S Mart,	Inc. dba Glad Mart		Policy Revision 2 (September 2002)
Case ID No.				PCW Revision May 19, 2005
Reg. Ent. Reference No.				
Media [Statute]				
Enf. Coordinator Violation Number	Patricia Cha	wla		
		30 Tex Admin	Code § 115.246(7)(A)	
Primary Rule Cite(s)			ifety Code § 382.085(b)	
Secondary Rule Cite(s)	E 11 17		at the Station ordinarily mann	
Violation Description	business ho	ours, and make immed	fat the Station of on review upor diately available for review upor rds were not available for review	n request.
			Bas	e Penalty \$10,000
>> Environmental, Pro	pperty and	Human Health M	atrix	
	-Porthauto	Harm		
Release	Major	Moderate Minor		
OR Actual Potential			Percent	
, otomat	L			
>> Programmatic Mat	rix			
Falsification	Major X	Moderate Minor	Percent 10%	
Matrix Notes	100% (	of the rule requiremen	twas not met.	
			Adjustment	-\$9,000
			Base Penalt	y Subtotal \$1,000
Violation Events				
Number of Viola	tion Events			
mark only one	daily monthly quarterly		Violation Ba	se Penalty \$1,000
use a small )	c semiannuaf annual single event	×		
One sin	gle event is re	ecommended based c on August 30, 20	n the investigation conducted 006.	
Economic Benefit	(EB) for th	nis violation	Statutory Limit	Test
Estimated E	B Amount	\$0	Violation Final Pe	nalty Total \$850
		This violation Fina	I Assessed Penalty (adjusted	for limits) \$850

Page 8 of 8	03/07/07	H:\Agreed Ord	lers\K&SMartIn	c-Glad	Mart\K&S Mart	_PCW.wb3	
Respondent Case ID No. Reg. Ent. Reference No.	K & S Mart, Inc 31539		enefit Wor <sup>rt</sup>	kshe	eet		
Media [Statute] Violation No.	Petroleum Stor	age Tank	De fjar	ह जन्मक	na shin yare e Mayar ya ƙ		Years of epreciation
ltem Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	5,0 Onetime Costs	EB Amount
Deleved Oceta			e da tre d'Étaint.			and Ash in	
Delayed Costs Equipment			nen an an traction and an	0.0	\$0]	\$0]	\$0
Buildings			all des and the second se	0.0	\$0	\$0  \$0	\$0 \$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land	un and an	and the second second second	esena esta construction da la	0.0	\$0	n/a	\$0
Record Keeping System	\$100	30-Aug-2006	14-Sep-2006	0.0	\$0 I.	n/a	\$0
Training/Sampling				0.0	\$0 \$0	n/a	\$0 \$0
Remediation/Disposal Permit Costs	a na manapanana any s			0.0	້ ຈັບ \$0	n/a n/a	\$0 \$0
Other (as needed)			a an a transformation and	0.0	\$0 \$0	n/a	<b>\$0</b>  ->
Notes for DELAYED costs	Estimated cos		Stage II records inal date is the	. The	date required is	the investigation	
	1				a esta a	a su ser en al su	
Avoided Costs	ANNI	JALIZE [1] avoide	d costs before en	tering it	em (except for one	-time avoided cost	s)
Disposal				0.0	\$0]	\$0	\$O·
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	<u>\$0</u>	\$0
Supplies/equipment				0.0	<u>\$0 </u>	<u>\$0</u>	\$0
Financial Assurance [2]				0.0	\$0 \$0	\$0 \$0	\$0 ¢0
ONE-TIME avoided costs [3] Other (as needed)				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Notes for AVOIDED costs			Linnanan managari I		φ0 ( 	φU	ΨU
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Approx. Cost of Compliance	\$100					TOTAL	\$0

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# **Compliance History**

Customer/	Respondent/Owner-Operat	tor: CN601565898	K & S Mart, Inc.	Classification: AVERA	GE Rating: 2.00
Regulated	Entity:	RN102586658	GLAD MART	Classification: AVERAG	GE Site Rating: 3.00
ID Numbe	r(s):	PETROLEUM S REGISTRATION		REGISTRATION	39372
Location:			ST BLVD, FT WORTH, TX,	76116 Rating Date: September	er 01 06 Repeat Violator: NO
TCEQ Re	gion:	REGION 04 - DF	W METROPLEX		
Date Com	pliance History Prepared:	October 23, 2006	)		
Agency D	ecision Requiring Complian	ce History: Enforcement			
Compliand	ce Period:	October 23, 200	to October 23, 2006	· · · · · · · · · · · · · · · · · · ·	
TCEQ Sta Name:	ff Member to Contact for A Patricia Chawla	dditional Information Regarding	this Compliance History none: <u>512-239-0739</u>		
	······································	Site 0	Compliance History Cor	nponents	
1. Has the	site been in existence and	/or operation for the full five yea	•	Yes	
		in ownership of the site during t		Yes	
3. If Yes,	who is the current owner?			K & S Mart, Inc.	
4. if Yes,	who was/were the prior ow	ner(s)?		Best Three Bears Corporation	
5. When	did the change(s) in owners	ship occur?		06/06/2003	
Compor	ents (Multimedia) for t	the Site :			
Α.	Final Enforcement Orders	, court judgments, and consent	decrees of the state of Texa	s and the federal government.	•
-	N/A				
В.	Any criminal convictions of	of the state of Texas and the fed	eral government.		• •
Б.	N/A				
C.	Chronic excessive emissi	ons events.			
	N/A				
D.	The approval dates of inv	estigations. (CCEDS Inv. Track.	No.)		
	`	16427)			
		511172) 276377)			ι.
	•	293316)			
		2849)			
E.	Written notices of violation	ns (NOV). (CCEDS Inv. Track. N	lo.)	·	
	Date: 07/28/2004	(276377)	-		
	Self Report? NO			sification: Moderate	
	Citation: Description:	30 TAC Chapter 115, SubChap Failure to maintain a record of		o 115 244 (Inspection	
	Description.	Requirements). At the time of investigation, a record of daily i record any daily inspections sir	the initial investigation and the initial investigation and the sections was not being m	he verbal NOV follow-up aintained. The facility did not	
	Self Report? NO		Clas	sification: Moderate	
	Citation:	30 TAC Chapter 115, SubChap		· · · · · ·	· · · · ·
	Description:	Failure to ensure at least one f instruction in the operation and successfully completing a train current and future employee as	maintenance of the Stage I ing course approved by the	I vapor recovery system by TCEQ. Failure to make each	
	Date: 06/17/2002	(2849)			
	Self Report? NO		Clas	sification: Moderate	
	Citation:	30 TAC Chapter 115, SubChap		puestigator to review	
	Description:	Facility did not have daily insp		ssification: Moderate	
	Self Report? NO		010.		

		Oltation: Description:	The coaxial ho metal mesh wa	se on Dispenser	estigator could def	ut just below the tect a gasoline oc	nozzle so that the lor coming from this			
	s	Self Report? NO	point.			Classificați	on Moderate			
		Sitation:	30 TAC Chapte	er 115. SubChap	ter C 115.248(1)[0		on mountate		1999 - 1999 1997 - 1999 1997 - 1999	
	.C	escription:	Current emplo	vees have not be	en trained on the	purpose and cor	rect operation of Sta	age		
			II equipment.	i yan in	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	and As All and As	19 an ann an Anna Anna Anna Anna Anna Ann			
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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

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### 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

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K & S Mart, Inc. dba Glad Mart DOCKET NO. 2006-1873-PST-E Page 2

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

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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a se de la companya d La companya de la comp 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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K & S Mart, Inc. dba Glad Mart DOCKET NO. 2006-1873-PST-E Page 5.

# SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

ecutive Director

19/07

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 TCEO, 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

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

12/24/06 Date 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.

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