EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1897-PST-E **TCEQ ID:** RN102840113 **CASE NO.:** 31572

RESPONDENT NAME: Key Oil Company dba Lawndale Service Station

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Lawndale Service Station, 7201 Lawndale Street, Houston, Harris 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 May 28, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Thomas Greimel, Enforcement Division, Enforcement Team 6, MC 128, (512) 239-5690; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Local Program Investigator: Mr. Jerry Crowder, Supervisor, University of Texas at Arlington, 1851 Crosspoint, Suite 1270, Houston, Texas 77054

Respondent: Mr. Peter S. Wareing, President, Key Oil Company, 3355 West Alabama Street, Houston, Texas 77098

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(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** August 9, 2006 **Date of NOE Relating to this Case:** August 30, 2006 (NOE) **Background Facts:** This was a routine investigation. Twelve violations were documented. **WASTE** 1) Failed to maintain Stage II records and make immediately available for inspection upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction. Specifically, Stage II records were not available for review, including records of maintenance conducted on any part of the Stage II equipment or a copy of the California Air Resources Board Executive Order for the Stage II vapor recovery system [30 TEX. ADMIN. CODE § 115.246(1), (3), and (7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 2) Failed to conduct required daily and monthly inspections of the Stage II vapor recovery system. Specifically, the Station Manager stated no inspections of the Stage II components were being performed at the Station [30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 3) Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system. Specifically, the Stage II training for the Station's representative had not been completed [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $14,500 **Total Deferred:** $2,900 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid (Due) to General Revenue:** $330 (the remaining $11,270 to be paid in 35 monthly payments of $322 each) **Site Compliance History Classification** _X_ **High** __ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** The Order will require the Respondent to: a. Immediately upon the effective date of this Agreed order: i. Begin conducting required daily and monthly inspections of the Stage II vapor recovery system; and ii. Begin conducting proper inventory control procedures for all USTs at the Station. b. Within 30 days after the effective date of this Agreed Order: i. Begin maintaining all records pertaining to the Stage II vapor recovery system; ii. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system; iii. Conduct annual testing of the Stage II equipment; iv. Install and implement a release detection system for the USTs and the piping associated with the USTs and test the line leak detectors for performance and operational reliability; v. Label the top of the UST fill tube or nonremovable point in the immediate area of the fill tube using the same numbering system as specified on the Station's self-certification form; and vi. Submit documentation that demonstrates 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.

4) Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacements or modifications. Specifically, the Station did not perform the annual testing [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. 5) 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)]. 6) Failed to monitor USTs in a manner that will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, monthly monitoring was not being performed. [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)]. 7) Failed to provide proper release detection for the piping associated with the UST system. Specifically, monthly monitoring or annual piping tightness testing had not been conducted [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)]. 8) Failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)]. 9) Failed to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)]. 10) Failed to record inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tanks each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)]. 11) Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Station [30 TEX. ADMIN. CODE § 334.48(c)].		c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.i through 2.b.v. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.

12) Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form. Specifically, the USTs were not numbered in a manner consistent with the numbering system used on the self-certification form for the Station [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].		

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	28-Aug-2006				
PCW	27-Oct-2006	Screening	06-Sep-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Key Oil Company dba Lawndale Service Station		
Reg. Ent. Ref. No.	RN102840113		
Facility/Site Region	12-Houston	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31572	No. of Violations	8
Docket No.	2006-1897-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Thomas Greimel
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* $14,500

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 for 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	$4,330
Approx. Cost of Compliance	$8,100

SUM OF SUBTOTALS 1-7 Final Subtotal $14,500

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 $14,500

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $14,500

DEFERRAL 20% Reduction Adjustment -$2,900

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 $11,600

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

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 for compliance history.

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

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.246(1), (3), and (7)(A)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records and make immediately available for inspection upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction. Specifically, Stage II records were not available for review, including records of maintenance conducted on any part of the Stage II equipment or a copy of the California Air Resources Board (CARB) Executive Order for the Stage II vapor recovery system.

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 documentation of the violation during the August 9, 2006 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $45

Statutory Limit Test

Violation Final Penalty Total $1,000

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

Economic Benefit Worksheet

Respondent Key Oil Company dba Lawndale Service Station
Case ID No. 31572
Reg. Ent. Reference No. RN102840113
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)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$1,000	09-Aug-2006	30-Jun-2007	0.9	$45	n/a	$45
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs Estimated cost to establish and maintain a record keeping system. The Date Required is the investigation date. The Final Date is the date the respondent is projected to come into 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 $45

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.244(1) and (3)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to conduct required daily and monthly inspections of the Stage II vapor recovery system. Specifically, the Station Manager stated no inspections of the Stage II components were being performed at the Station.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -$9,000

Base Penalty Subtotal $1,000

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 $1,000

One quarterly event is recommended from the August 9, 2006 investigation date to the September 6, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $20

Statutory Limit Test

Violation Final Penalty Total $1,000

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

Economic Benefit Worksheet

Respondent Key Oil Company dba Lawndale Service Station
Case ID No. 31572
Reg. Ent. Reference No. RN102840113
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)	$500	09-Aug-2006	30-May-2007	0.8	$20	n/a	$20

Notes for DELAYED costs: Estimated cost to conduct daily and monthly inspections of the Stage II vapor recovery system. The Date Required is the date of the investigation. The Final Date is the date the respondent is projected to come into 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 $20

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 3

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.248(1)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system. Specifically, the Stage II training for the Station's representative had not been completed.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

OR

Percent 10%

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -$9,000

Base Penalty Subtotal $1,000

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 $1,000

One quarterly event is recommended from the August 9, 2006 investigation date to the September 6, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $45

Statutory Limit Test

Violation Final Penalty Total $1,000

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

Economic Benefit Worksheet

Respondent Key Oil Company dba Lawndale Service Station
Case ID No. 31572
Reg. Ent. Reference No. RN102840113
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
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$1,000	09-Aug-2006	30-Jun-2007	0.9	$45	n/a	$45
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 provide employee training regarding the opreration of the Stage II vapor recovery system. The Date Required is the date of the investigation. The Final Date is the date the respondent is projected to come into 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 $45

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 4

Primary Rule Cite(s) 30 Texas Admin. Code § 115.245(2)

Secondary Rule Cite(s) Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacements or modifications. Specifically, the Station did not perform the annual testing.

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 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	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $2,500

One annual event is recommended for the 12-month period preceding the August 9, 2006 investigation date.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,050

Statutory Limit Test

Violation Final Penalty Total $2,500

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

Economic Benefit Worksheet

Respondent Key Oil Company dba Lawndale Service Station
Case ID No. 31572
Reg. Ent. Reference No. RN102840113
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				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
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	09-Aug-2005	09-Aug-2006	1.0	$50	$1,000	$1,050

Notes for DELAYED costs

Notes for AVOIDED costs Estimated cost to conduct annual testing to verify proper operation of the Stage II equipment. Date required is 12 months prior to the investigation date. The Final Date is the investigation date.

Approx. Cost of Compliance $1,000

TOTAL $1,050

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 5

Primary Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)

Secondary Rule Cite(s)

Violation Description Failure 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 the petroleum USTs.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

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 (one per tank) are recommended based on the August 9, 2006 investigation which documented the violation.

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 Key Oil Company dba Lawndale Service Station
Case ID No. 31572
Reg. Ent. Reference No. RN102840113
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				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	09-Aug-2005	09-Aug-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	Estimated cost to provide financial assurance for the three petroleum USTs. The Date Required is one year prior to the investigation date. The Final date is the investigation date.						

Approx. Cost of Compliance $1,950

TOTAL $2,048

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 6

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I)

Secondary Rule Cite(s) Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description Failed to monitor USTs in a manner that will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, monthly monitoring was not being performed. Failed to provide proper release detection for the piping associated with the UST system. Specifically, monthly monitoring or annual piping tightness testing had not been conducted. Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons. Failed to record inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tanks 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 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 August 9, 2006 investigation date to the September 6, 2006 screening date.

Economic Benefit (EB) for this violation

Estimated EB Amount $1,117

Statutory Limit Test

Violation Final Penalty Total $2,500

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

Economic Benefit Worksheet

Respondent Key Oil Company dba Lawndale Service Station
Case ID No. 31572
Reg. Ent. Reference No. RN102840113
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				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)	$1,500	09-Aug-2006	30-Jun-2007	0.9	$67	n/a	$67

Notes for DELAYED costs: Estimated cost to provide release detection for the UST system. The Date Required is the date of the investigation. The Final Date is the date the respondent is projected to come into 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	09-Aug-2005	09-Aug-2006	1.0	$50	$1,000	$1,050

Notes for AVOIDED costs: Avoided cost for annual piping tightness test and annual line leak detector tests.

Approx. Cost of Compliance: $2,500

TOTAL $1,117

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 7

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

Secondary Rule Cite(s)

Violation Description Failure to conduct effective manual or automatic inventory control procedures for the UST system at the Station.

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 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 August 9, 2006 investigation date to the September 6, 2006 screening date.

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 Key Oil Company dba Lawndale Service Station
Case ID No. 31572
Reg. Ent. Reference No. RN102840113
Media [Statute] Petroleum Storage Tank
Violation No. 7

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)	$100	09-Aug-2006	30-May-2007	0.8	$4	n/a	$4

Notes for DELAYED costs: Estimated cost to conduct inventory control procedures. The Date Required is the date of the investigation. The Final Date is the date the respondent is projected to come into compliance.

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

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 $4

Screening Date 06-Sep-2006 **Docket No.** 2006-1897-PST-E **PCW**

Respondent Key Oil Company dba Lawndale Service Station *Policy Revision 2 (September 2002)*

Case ID No. 31572 *PCW Revision May 19, 2005*

Reg. Ent. Reference No. RN102840113

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 8

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Secondary Rule Cite(s)

Violation Description Failure to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form. Specifically, USTs were not numbered in a manner consistent with the self-certification form for the Station.

Base Penalty $10,000

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

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

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 documentation of the violation during the August 9, 2006 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount $2

Statutory Limit Test

Violation Final Penalty Total $1,000

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

Economic Benefit Worksheet

Respondent Key Oil Company dba Lawndale Service Station
Case ID No. 31572
Reg. Ent. Reference No. RN102840113
Media [Statute] Petroleum Storage Tank
Violation No. 8

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)	$50	09-Aug-2006	30-Jun-2007	0.9	$2	n/a	$2

Notes for DELAYED costs: Estimated cost to label USTs with numbers that are consistent with the self-certification form. The Date Required is the date of the investigation. The Final Date is the date the respondent is projected to come into 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: $50

TOTAL $2

Compliance History

Customer/Respondent/Owner-Operator:	CN600582928	Key Oil Company	Classification: AVERAGE	Rating: 2.58
Regulated Entity:	RN102840113	LAWNDALE SERVICE STATION	Classification: HIGH	Site Rating: 0.00

ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	22196
Location:	7201 LAWNDALE ST, HOUSTON, TX, 77012	Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON		
Date Compliance History Prepared:	October 29, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 29, 2001 to October 29, 2006		

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

Name: Thomas Greimel Phone: (512) 239-5690

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 08/30/2006 (509194)

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	§	**TEXAS COMMISSION ON**
KEY OIL COMPANY DBA	§	
LAWNDALE SERVICE STATION	§	**ENVIRONMENTAL QUALITY**
RN102840113		

AGREED ORDER
DOCKET NO. 2006-1897-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 Key Oil Company dba Lawndale Service Station ("Key Oil") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Key Oil appear before the Commission and together stipulate that:

1. Key Oil owns a convenience store with retail sales of gasoline at 7201 Lawndale Street in Houston, Harris County, Texas (the "Station").

2. Key Oil's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

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

4. Key Oil received notice of the violations alleged in Section II ("Allegations") on or about September 4, 2006.

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

6. An administrative penalty in the amount of Fourteen Thousand Five Hundred Dollars ($14,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Key Oil has paid Three Hundred Thirty Dollars ($330) of the administrative penalty and Two Thousand Nine Hundred Dollars ($2,900) is deferred contingent upon Key Oil'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 Key Oil fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Key Oil to pay all or part of the deferred penalty.

The remaining amount of Eleven Thousand Two Hundred Seventy Dollars ($11,270) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Twenty-Two Dollars ($322) 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 Key Oil 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 Key Oil to meet the payment schedule of this Agreed Order constitutes the failure by Key Oil 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 Key Oil have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Key Oil has not complied with one or more of the terms or conditions in this Agreed Order.

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

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

II. ALLEGATIONS

As owner of the Station, Key Oil is alleged to have:

1. Failed to maintain Stage II records and make immediately available for inspection upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction, in violation of 30 TEX. ADMIN. CODE § 115.246(1), (3), and (7)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 9, 2006. Specifically, Stage II records were not available for review, including records of maintenance conducted on any part of the Stage II equipment or a copy of the California Air Resources Board Executive Order for the Stage II vapor recovery system.

2. Failed to conduct required daily and monthly inspections of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 9, 2006. Specifically, the Station Manager stated no inspections of the Stage II components were being performed at the Station.

3. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 9, 2006. Specifically, the Stage II training for the Station's representative had not been completed.

4. Failed to verify proper operation of the Stage II equipment at least once every 12 months or upon major system replacements or modifications, 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 9, 2006. Specifically, the Station did not perform the annual testing.

5. 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 August 9, 2006.

6. Failed to monitor USTs in a manner that 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 August 9, 2006. Specifically, monthly monitoring was not being performed.

7. Failed to provide proper release detection for the 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 August 9, 2006. Specifically, monthly monitoring or annual piping tightness testing had not been conducted.

8. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on August 9, 2006.

9. Failed to conduct reconciliation of detailed inventory control records at least once a month sufficiently accurate to detect a release as small as 1.0% of the total substance flow through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 9, 2006.

10. Failed to record inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tanks each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on August 9, 2006.

11. Failed to conduct effective manual or automatic inventory control procedures for the UST system at the Station, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on August 9, 2006.

12. Failed to ensure that a legible tag, label, or marking with the UST identification number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), as documented during an investigation conducted on August 9, 2006. Specifically, the USTs were not numbered in a manner consistent with the numbering system used on the self-certification form for the Station.

III. DENIALS

Key Oil generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Key Oil pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Key Oil'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: Key Oil Company dba Lawndale Service Station, Docket No. 2006-1897-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 Key Oil shall undertake the following technical requirements:

   a. Immediately upon the effective date of this Agreed Order:

      i. Begin conducting required daily and monthly inspections of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.244; and

      ii. Begin conducting proper inventory control procedures for all USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.48.

   b. Within 30 days after the effective date of this Agreed Order:

i. Begin maintaining all records pertaining to the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.246;

ii. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248;

iii. Conduct annual testing of the Stage II equipment, in accordance with 30 TEX. ADMIN. CODE § 115.245;

iv. Install and implement a release detection system for the USTs and the piping associated with the USTs and test the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50;

v. Label the top of the UST fill tube or nonremovable point in the immediate area of the fill tube using the same numbering system as specified on the Station's self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8; and

vi. Submit documentation that demonstrates 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 accordance with 30 TEX. ADMIN. CODE § 37.815 to:

Mr. Rob Norris, Senior Financial Analyst
Financial Assurance Unit, MC 184
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

c. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.i through 2.b.v. as described below:

The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, 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
Houston Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Houston, Texas 77703-1830

3. The provisions of this Agreed Order shall apply to and be binding upon Key Oil. Key Oil is 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.

4. If Key Oil 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, Key Oil's failure to comply is not a violation of this Agreed Order. Key Oil shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Key Oil shall notify the Executive Director within seven days after Key Oil 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 Key Oil shall be made in writing to the Executive Director. Extensions are not effective until Key Oil 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 Key Oil 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 Key Oil, or three days after the date on which the Commission mails notice of the Order to Key

Oil, 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

_____ 6/27/07
For the Executive Director 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.

_____ 3-~~26~~ 19-07
Signature Date

Peter S. Wareing President
Name (Printed or typed) Title
Authorized Representative of
Key Oil Company dba Lawndale Service Station

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.