

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0107-PST-E **TCEQ ID:** RN101888543 **CASE NO.:** 32137

RESPONDENT NAME: Mohammad Saeed Akhtar dba K & P 1 Food Store

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

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

SITE WHERE VIOLATION(S) OCCURRED: K & P 1 Food Store, 4802 Rittiman Road, San Antonio, Bexar County

TYPE OF OPERATION: Convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: An anonymous call was received at the San Antonio Regional office on October 8, 2006 for the Facility's cathodic protection system not working. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: A complaint was received, but the complainant has not expressed the desire to protest this action or to speak at Agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired on June 18, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Shontay Wilcher; Enforcement Division, Enforcement Team 6, MC 128, (512) 239-2136; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

Respondent: Mr. Mohammad Saeed Akhtar, Owner, K&P 1 Food Store, San Antonio, Texas 78218

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

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED:
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: October 8, 2006</p> <p>Date of Investigation Relating to this Case: November 6, 2006</p> <p>Date of NOE Relating to this Case: December 20, 2006 (NOE)</p> <p>Background Facts: This was a complaint investigation. Five violations were documented.</p> <p>WASTE</p> <p>1) Failed to provide proper corrosion protection for the UST system [30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d)].</p> <p>2) Failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other ancillary equipment [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>3) Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 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)].</p> <p>4) Failed to maintain UST records and immediately make available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>5) Failed to provide an amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p>	<p>Total Assessed: \$8,400</p> <p>Total Deferred: \$1,680 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$192 (the remaining \$6,528 to be paid in 34 monthly payments of \$192 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that Mr. Akhtar has implemented the following corrective measures at the Facility:</p> <p>a. Hired a licensed contractor who replaced the anode wires, activated the rectifier box, and tested the cathodic protection system on December 12, 2006 and the system passed;</p> <p>b. Implemented a release detection method for all USTs and began conducting reconciliation of inventory control records on January 18, 2007;</p> <p>c. Submitted all UST records on February 15, 2007; and</p> <p>d. Submitted an amended UST registration form to the TCEQ on November 7, 2006.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	3-Jan-2007	Screening	8-Jan-2007	EPA Due	
	PCW	15-Mar-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	Mohammad Saeed Akhtar dba K & P 1 Food Store
Reg. Ent. Ref. No.	RN101888543
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	32137	No. of Violations	4	
Docket No.	2007-0107-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Shontay Wilcher	
Multi-Media		EC's Team	EnforcementTeam 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30% Enhancement	Subtotals 2, 3, & 7	\$2,100
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Notes Enhancement for one 1660 Order and Poor Performer Classification.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply	10% Reduction	Subtotal 5	\$700
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The respondent came into compliance on February 15, 2007.

Total EB Amounts	\$18	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$1,900	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,400
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount \$8,400

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,400
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DEFERRAL	20% Reduction	Adjustment	-\$1,680
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$6,720
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Screening Date 8-Jan-2007

Docket No. 2007-0107-PST-E

PCW

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Policy Revision 2 (September 2002)

Case ID No. 32137

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101888543

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	0	0%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 submitted)	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) 20%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for one 1660 Order and Poor Performer Classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

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Screening Date 8-Jan-2007

Docket No. 2007-0107-PST-E

PCW

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Policy Revision 2 (September 2002)

Case ID No. 32137

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101888543

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.49(a) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to provide proper corrosion protection for the UST system. Specifically, the rectifier box was not turned on and the anode wires were broken.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

36 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the November 6, 2006 investigation date to the December 12, 2006 compliance date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,000

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

Economic Benefit Worksheet

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Case ID No. 32137

Reg. Ent. Reference No. RN101888543

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$200	6-Nov-2006	12-Dec-2006	0.1	\$0	\$1	\$1
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to provide proper corrosion control protection for the USTs. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$1

Screening Date 8-Jan-2007

Docket No. 2007-0107-PST-E

PCW

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Policy Revision 2 (September 2002)

Case ID No. 32137

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101888543

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.50(a)(1)(A), 334.50(d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other ancillary equipment. Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 63

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the November 6, 2006 investigation date to the January 8, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$3,000

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

Economic Benefit Worksheet

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Case ID No. 32137

Reg. Ent. Reference No. RN101888543

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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	6-Nov-2006	18-Jan-2007	0.2	\$15	n/a	\$15

Notes for DELAYED costs

Estimated cost to provide release detection for the UST system. Date Required is the date of investigation. Final date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$15

Screening Date 8-Jan-2007

Docket No. 2007-0107-PST-E

PCW

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Policy Revision 2 (September 2002)

Case ID No. 32137

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101888543

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.10(b)

Violation Description

Failed to maintain UST records and immediately make available for inspection upon request by agency personnel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

63 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the November 6, 2006 investigation date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,200

This violation Final Assessed Penalty (adjusted for limits) \$1,200

Economic Benefit Worksheet

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Case ID No. 32137

Reg. Ent. Reference No. RN101888543

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	6-Nov-2006	15-Feb-2007	0.3	\$1	n/a	\$1
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain the required records. The Date Required is the date of the investigation and the Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1

Screening Date 8-Jan-2007

Docket No. 2007-0107-PST-E

PCW

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Policy Revision 2 (September 2002)

Case ID No. 32137

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN101888543

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Shontay Wilcher

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to provide an amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current release detection method utilized at the Facility.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

63 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the November 6, 2006 investigation date.

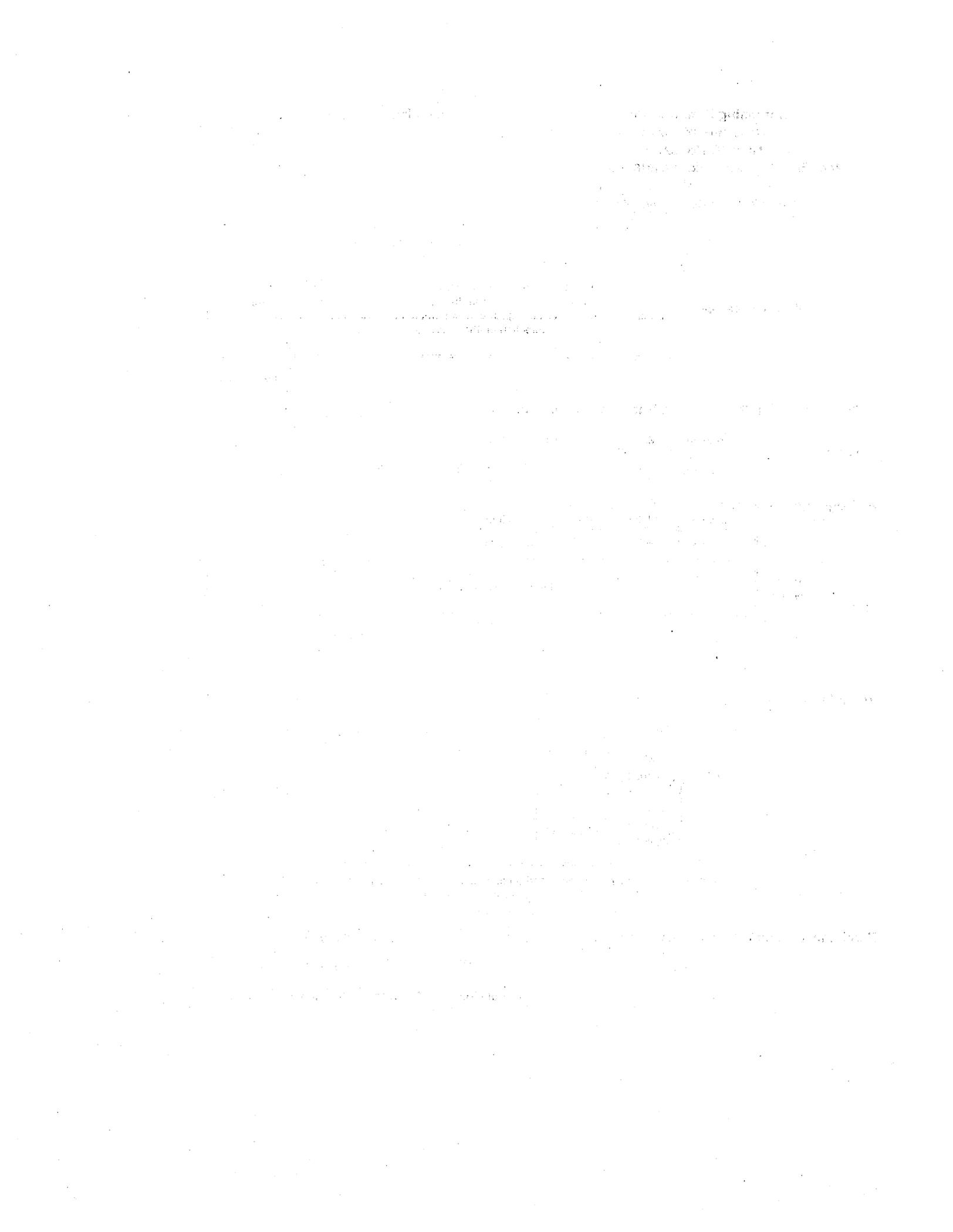
Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,200

This violation Final Assessed Penalty (adjusted for limits) \$1,200



Economic Benefit Worksheet

Respondent Mohammad Saeed Akhtar dba K & P 1 Food Store

Case ID No. 32137

Reg. Ent. Reference No. RN101888543

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

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	1-Nov-2006	7-Nov-2006	0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the date the updated UST registration form was due. The Final Date is the date of compliance.

Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator:	CN603130576 AKHTAR, MOHAMMAD SAEED	Classification: POOR	Rating: 105.00
Regulated Entity:	RN101888543 K & P 1 FOOD STORE	Classification: POOR	Site Rating: 105.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	4196
Location:	4802 RITTIMAN RD, SAN ANTONIO, TX, 78218	Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 13 - SAN ANTONIO		
Date Compliance History Prepared:	January 30, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 30, 2002 to January 30, 2007		

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

Name: Shontay Wilcher Phone: (512) 239-2136

Site Compliance History Components

- | | |
|--|--------------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | <u>Chenab, Inc.</u> |
| 4. If Yes, who was/were the prior owner(s)? | <u>G M I Enterprises, Inc.</u> |
| 5. When did the change(s) in ownership occur? | <u>07/01/2003</u> |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

- | | |
|--|----------------------------|
| Effective Date: 09/23/2002 | ADMINORDER 2001-1453-PST-E |
| Classification: Moderate | |
| Citation: 2C TWC Chapter 20, SubChapter A 26.346(a)
30 TAC Chapter 334, SubChapter A 334.8(c)(4)(B) | |
| Description: Failure to have an UST registration and self certification form, fully and accurately completed, and submitted to the agency in a timely manner. | |
| Classification: Moderate | |
| Citation: 2C TWC Chapter 20, SubChapter A 26.3467(a)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i) | |
| Description: Failure to have a copy of a valid, current TNRCC delivery certificate for the specific UST before accepting delivery of the regulated substance into the UST. | |
| Classification: Minor | |
| Citation: 30 TAC Chapter 334, SubChapter B 334.21[G]
30 TAC Chapter 334, SubChapter B 334.22[G] | |
| Description: Failure to pay outstanding petroleum storage tank fees. | |

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. (CEEDS Inv. Track. No.)

E. Written notices of violations (NOV). (CEEDS 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
ENFORCEMENT ACTION
CONCERNING
MOHAMMAD SAEED AKHTAR DBA
K & P 1 FOOD STORE
RN101888543

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0107-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 Mohammad Saeed Akhtar dba K & P 1 Food Store ("Mr. Akhtar") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Mr. Akhtar appear before the Commission and together stipulate that:

1. Mr. Akhtar operates a convenience store with retail sales of gasoline at 4802 Rittiman Road in San Antonio, Bexar County, Texas (the "Facility").
2. Mr. Akhtar's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and Mr. Akhtar agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Akhtar is subject to the Commission's jurisdiction.
4. Mr. Akhtar received notice of the violations alleged in Section II ("Allegations") on or about December 25, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Akhtar of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eight Thousand Four Hundred Dollars (\$8,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Mr. Akhtar has paid One Hundred Ninety Two Dollars (\$192) of the administrative penalty and One Thousand Six Hundred Eighty Dollars (\$1,680) is deferred contingent upon Mr. Akhtar's timely and satisfactory compliance with all the terms of this Agreed Order. If Mr. Akhtar fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Akhtar to pay all or part of the deferred penalty.

The remaining amount of Six Thousand Five Hundred Twenty-Eight Dollars (\$6,528) of the administrative penalty shall be payable in 34 monthly payments of One Hundred Ninety-Two Dollars (\$192) 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 Mr. Akhtar 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 Mr. Akhtar to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Akhtar 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 Mr. Akhtar 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 Mr. Akhtar has implemented the following corrective measures at the Facility:
 - a. Hired a licensed contractor who replaced the anode wires, activated the rectifier box, and tested the cathodic protection system on December 12, 2006 and the system passed;
 - b. Implemented a release detection method for all USTs and began conducting reconciliation of inventory control records on January 18, 2007;
 - c. Submitted all UST records on February 15, 2007; and
 - d. Submitted an amended UST registration form to the TCEQ on November 7, 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 Mr. Akhtar has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Facility, Mr. Akhtar is alleged to have:

1. Failed to provide proper corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on November 6, 2006. Specifically, the rectifier box was not turned on and the anode wires were broken.
2. Failed to have a release detection method capable of detecting a release from any portion of the UST system which contained regulated substances including the tanks, piping, and other ancillary equipment, in violation of 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on November 6, 2006.
3. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 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 November 6, 2006.
4. Failed to maintain UST records and immediately make available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on November 6, 2006.
5. Failed to provide an amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on November 6, 2006. Specifically, the registration was not updated to reflect the current release detection method utilized at the Facility.

III. DENIALS

Mr. Akhtar generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Akhtar pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Akhtar'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: Mohammad Saeed Akhtar dba K & P 1 Food Store, Docket No. 2007-0107-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 Mr. Akhtar. Mr. Akhtar is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If Mr. Akhtar 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, Mr. Akhtar's failure to comply is not a violation of this Agreed Order. Mr. Akhtar shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Akhtar shall notify the Executive Director within seven days after Mr. Akhtar 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 Mr. Akhtar shall be made in writing to the Executive Director. Extensions are not effective until Mr. Akhtar 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 Mr. Akhtar 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 Mr. Akhtar, or three days after the date on which the Commission mails notice of the Order to Mr. Akhtar, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Mohammad Saeed Akhtar dba K & P 1 Food Store
DOCKET NO. 2007-0107-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Suller
For the Executive Director

8/9/2007
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.

Saeed AKHTAR
Signature

04-18-07
Date

MOHAMMAD SAEED AKHTAR
Name (Printed or typed)
Authorized Representative of
Mohammad Saeed Akhtar dba K & P 1 Food Store

OWNER
Title

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

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