

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2004-0535-PST-E TCEQ ID NO.: RN102957636 CASE NO.: 15654**  
**RESPONDENT NAME: JASPAL SINGH DBA RK MART**

<b>ORDER TYPE:</b>		
<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	

<b>CASE TYPE:</b>		
<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:** 3805 Lee Street, Greenville, Hunt County

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

**SMALL BUSINESS:**  Yes  No

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

**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 February 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Jim Sallans, Litigation Division, MC 175, (512) 239-2053  
 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  
**TCEQ Enforcement Coordinator:** Ms. Suzanne Walrath, Air Enforcement Section, MC 149, (512) 239-2134  
**TCEQ Regional Contact:** Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903  
**Respondent:** Mr. Jaspal Singh, Owner, RK Mart, 3805 Lee Street, Greenville, Texas 75401  
**Respondent's Attorney:** Mr. John Rivas, Rivas, Goldstein, LLP, 1601 East 5<sup>th</sup> Street, Suite 101, Austin, Texas 78702

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Dates of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigations Relating to this Case:</b> October 31, 2003</p> <p><b>Dates of NOE Relating to this Case:</b> February 4, 2004</p> <p><b>Background Facts:</b></p> <p>This is a PST case that initiated as a Record Review. It was referred to SOAH and was resolved on the eve of the hearing.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST:</b></p> <p>1. Failed to provide a proper releases detection method capable of detecting a release from any portion of the UST system [30 TEX. ADMIN. CODE § 334.50(a)(1)(A), (b)(1)(A), and (b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>2. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>3. Failed to develop and maintain all the required records for review [30 TEX. ADMIN. CODE § 334.10(b)].</p>	<p><b>Total Assessed:</b> \$5,600</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid/Due to General Revenue:</b> \$175/\$5,425</p> <p>The Respondent has paid \$175 of the administrative penalty. The remaining amount of \$5,425 of the administrative penalty shall be payable in 35 monthly payment of \$155 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input type="checkbox"/> Average <input checked="" type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken</b></p> <p>The Executive Director recognizes that the Respondent has taken the following corrective measures at the Facility in response to this enforcement action:</p> <ol style="list-style-type: none"> <li>Submitted the inventory control records to a Statistical Inventory Reconciliation provider on December 15, 2003.</li> <li>Conducted line leak detector testing for performance and operational reliability on December 15, 2003 and submitted the test results to the TCEQ on December 15, 2003. The system passed the test.</li> </ol> <p><b>Ordering Provisions</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Within 30 days, appropriately mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST.</li> <li>Within 45 days, submit written certification including detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 1.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 17, 2004

**DATES**

PCW	08-Nov-2006	Screening	23-Apr-2004	Priority Due	22-Jul-2004	EPA Due	
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**RESPONDENT/FACILITY INFORMATION**

Respondent	Jaspal Singh dba RK Mart		
Reg. Ent. Ref. No.	RN102957636		
Additional ID No(s)	Petroleum Storage Tank Facility ID No. 20750		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor Source

**CASE INFORMATION**

Enf./Case ID No.	15654	No. of Violations	3
Docket No.	2004-0535-PST-E	Order Type	1660 without deferral
Case Priority	3	Enf. Coordinator	Suzanne Walrath
Media Program(s)	Petroleum Storage Tank	EC's Team	Enforcement Team 8
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  40% Enhancement Subtotals 2, 3, & 7

Notes: The facility received an NOV dated December 1, 2003 for the same or similar violations and a Default Order (Docket No. 2002-1218-PST-E) effective December 5, 2003.

**Culpability**  No  0% Enhancement Subtotal 4

Notes: The respondent does not meet the culpability criteria.

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

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(mark with a small x)

Notes: The respondent is not yet in compliance.

**Economic Benefit**  0% Enhancement Subtotal 6

Total EB Amounts	<input type="text" value="\$16"/>	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	<input type="text" value="\$1,200"/>	

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

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

Notes:

Final Penalty Amount

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes: The facility received an NOV for the same or similar violations dated December 1, 2003.

**PAYABLE PENALTY**

**Screening Date** 23-Apr-2004 **Docket No.** 2004-0535-PST-E **PCW**  
**Respondent** Jaspal Singh dba RK Mart *Policy Revision 2 (September 2002)*  
**Case ID No.** 15654 *PCW Revision May 17, 2004*  
**Reg. Ent. Reference No.** RN102957636  
**Additional ID No(s).** Petroleum Storage Tank Facility ID No. 20750  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Suzanne Walrath  
**Site Address** 3805 Lee Street, Greenville, Hunt County, Texas 75401

**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)	1	5%
	Other written NOVs		0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)		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	1	25%
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%
	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%
Convictions	Any criminal convictions of this state or the federal government (number of counts)		0%
Emissions	Chronic excessive emissions events (number of events)		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%
	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more		0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program		0%
	Participation in a voluntary pollution reduction program		0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements		0%

**Adjustment Percentage (Subtotal 2)** 30%

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)** 10%

> **Compliance History Summary**

**Compliance History Notes** The facility received an NOV dated December 1, 2003 for the same or similar violations and a Default Order (Docket No. 2002-1218-PST-E) effective December 5, 2003.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

Screening Date 23-Apr-2004

Docket No. 2004-0535-PST-E

PCW

Respondent Jaspal Singh dba RK Mart

Policy Revision 2 (September 2002)

Case ID No. 15654

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN102957636

Additional ID No(s). Petroleum Storage Tank Facility ID No. 20750

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Suzanne Walrath

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 334.50(a)(1)(A)

Secondary Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a) & (c)(1)

Violation Description  
 The respondent failed to provide a proper release detection method capable of detecting a release from any portion of the UST system. The respondent failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, the respondent did not submit the inventory control records to an Statistical Inventory Reconciliation provider at the end of every month. Also, the respondent had not tested the line leak detectors at least once per year for performance and operational reliability.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
						Percent

Matrix Notes  
 Failure to provide a proper method of release detection could result in undetected releases that would expose human health and the environment to significant amount of pollutants which would exceed levels that are protective of human and environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$2,500

One quarterly event is recommended from the inspection date of October 31, 2003 to the date that TCEQ received documentation that compliance had been achieved (12/15/03).

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$3,500

This violation Final Assessed Penalty (adjusted for limits) \$3,500

### Economic Benefit Worksheet

Respondent: Jaspal Singh dba RK Mart  
 Case ID No: 15654  
 Reg. Ent. Reference No: RN102957636  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 20750  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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)	\$150	31-Oct-2003	15-Dec-2003	0.1	\$1	n/a	\$1

Notes for DELAYED costs: Approximate cost to monitor USTs for releases on a monthly basis. The Date Required is the date of investigation and the Final Date is the date compliance was achieved.

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 \$150 TOTAL \$1

Screening Date 23-Apr-2004 Docket No. 2004-0535-PST-E **PCW**  
 Respondent Jaspal Singh dba RK Mart Policy Revision 2 (September 2002)  
 Case ID No. 15654 PCW Revision May 17, 2004

Reg. Ent. Reference No. RN102957636  
 Additional ID No(s). Petroleum Storage Tank Facility ID No. 20750

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Suzanne Walrath

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

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

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

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	Percent <input type="text" value="10%"/>
		<input type="text"/>	<input checked="" type="text" value="X"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Base Penalty Subtotal

**Violation Events**

Number of Violation Events

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

Violation Base Penalty

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

Respondent: Jaspal Singh dba RK Mart  
 Case ID No: 15654  
 Reg. Ent. Reference No: RN102957636  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 20750  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
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	31-Oct-2003	31-Mar-2007	3.4	\$9	n/a	\$9

Notes for DELAYED costs: Approximate cost to label the UST fill pipes. The Date Required is the date of investigation and the Final Date is the projected 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: \$50 TOTAL \$9

Screening Date 23-Apr-2004

Docket No. 2004-0535-PST-E

PCW

Respondent Jaspal Singh dba RK Mart

Policy Revision 2 (September 2002)

Case ID No. 15654

PCW Revision May 17, 2004

Reg. Ent. Reference No. RN102957636

Additional ID No(s). Petroleum Storage Tank Facility ID No. 20750

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Suzanne Walrath

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	Percent <input type="text" value="5%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

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

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

### Economic Benefit Worksheet

Respondent: Jaspal Singh dba RK Mart  
 Case ID No: 15654  
 Reg. Ent. Reference No: RN102957636  
 Additional ID No(s): Petroleum Storage Tank Facility ID No. 20750  
 Media [Statute]: Petroleum Storage Tank  
 Violation No: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	31-Oct-2003	15-Dec-2003	0.1	\$6	n/a	\$6
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: Approximate cost to establish and maintain a recordkeeping system. The Date Required is the date of investigation and the Final Date is the date compliance was achieved.

Item Description	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
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** \$6

# Compliance History

Customer/Respondent/Owner-Operator: CN602449647 SINGH, JASPAL Classification: POOR Rating: 75.67  
Regulated Entity: RN102957636 RK MART Classification: POOR Site Rating: 75.67  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 20750  
REGISTRATION  
Location: 3805 LEE ST, GREENVILLE, TX, 75401 Rating Date: September 01 07 Repeat Violator: NO  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: July 29, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: June 18, 1999 to June 18, 2004  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Suzanne Walrath Phone: 512/239-2134

## 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 judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 12/05/2003 ADMINORDER 2002-1218-PST-E  
Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failure to ensure that all tanks are monitored for releases at a frequency of at least once every month.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)  
30 TAC Chapter 334, SubChapter C 334.49(a)

Description: Failure to have installed a method of corrosion protection for the tank system.

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)  
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to demonstrate financial responsibility for taking corrective action and compensating 3rd parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum USTs.

- 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 08/30/2001 (140860)  
2 12/02/2003 (254866)  
3 01/28/2004 (261140)  
4 01/30/2004 (260604)

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

Date: 12/01/2003 (254866)

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label, or marking with the tank 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.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)  
Description: Failed to develop and maintain all the required records for review.

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  
JASPAL SINGH DBA RK MART,  
RN102957636

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2004-0535-PST-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jaspal Singh dba RK Mart ("Mr. Singh") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Singh represented by John Rivas of the law firm of Rivas, Goldstein, LLP, appear before the Commission and together stipulate that:

1. Mr. Singh owns and operates a convenience store with retail sales of gasoline located at 3805 Lee Street, Greenville, Hunt County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the TCEQ rules.
3. The Commission and Mr. Singh agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Singh is subject to the Commission's jurisdiction.
4. Mr. Singh received notice of the violations alleged in Section II ("Allegations") on or about February 4, 2004.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Singh of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of five thousand six hundred dollars (\$5,600.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Mr. Singh has paid one hundred seventy-five dollars (\$175.00) of the

administrative penalty. The remaining amount of five thousand four hundred twenty-five dollars (\$5,425.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred fifty-five dollars (\$155.00) 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. Singh fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his 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. Singh to meet the payment schedule of this Agreed Order constitutes the failure by Mr. Singh 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. Singh 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. Singh has implemented the following corrective measures at the Facility in response to this enforcement action:
  - a. Submitted the inventory control records to a Statistical Inventory Reconciliation provider on December 15, 2003; and
  - b. Conducted line leak detector testing for performance and operational reliability on December 15, 2003 and submitted the test results to the TCEQ on December 15, 2003. The system passed the test.
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. Singh 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

Mr. Singh is alleged to have violated:

1. 30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), 334.50(b)(1)(A), (b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) and (c)(1) by failing to provide a proper releases detection method capable of detecting a release from any portion of the UST system as documented on October 31, 2003.
2. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration an self-certification form as documented on October 31, 2003.
3. 30 TEX. ADMIN. CODE § 334.10(b) by failing to develop and maintain all the required records for review as documented on October 31, 2003.

## III. DENIALS

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

## IV. ORDER

1. It is, therefore, ordered by the TCEQ that Mr. Singh pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Singh'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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Jaspal Singh dba RK Mart, Docket No. 2004-0535-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. Mr. Singh shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Mr. Singh shall appropriately mark the top of each fill tube or non-removable point in the immediate area of the fill tube of each UST, in accordance with 30 TEX. ADMIN. CODE § 334.8 (relating to Certification for USTs and UST systems).
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation, including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.:

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

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

The certification shall be submitted to:

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

and

Sam Barrett, Waste Section Manager  
Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
2301 Gravel Drive  
Fort Worth, Texas 76118-6951

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

4. If Mr. Singh 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. Singh's failure to comply is not a violation of this Agreed Order. Mr. Singh shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Singh shall notify the Executive Director within seven days after Mr. Singh 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 Mr. Singh shall be made in writing to the Executive Director. Extensions are not effective until Mr. Singh 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 Mr. Singh 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Singh, or three days after the date on which the Commission mails notice of the Order to Mr. Singh, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



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

2/19/07

\_\_\_\_\_  
Date

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

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

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

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

  
Signature

12.16.06  
Date

JASPAL SINGH  
Name (Printed or typed)  
Authorized representative of  
Jaspal Singh dba RK Mart

owner  
Title