

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1825-PST-E TCEQ ID: RN102239035 CASE NO.: 31480
RESPONDENT NAME: IZ, INC. DBA IZ FOOD MART

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
<p>SITE WHERE VIOLATION(S) OCCURRED: 699 West Renner Road, Richardson, Collin County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 28, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney: Ms. Kathleen C. Decker, Litigation Division, MC 475, (512) 239-6500 Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873 TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC, R-4, (817) 588-5825 TCEQ Regional Contact: Mr. Samuel Barrett, DFW Regional Office, MC R-4, (817) 588-5903 Respondent: Mr. Ahmad Hussain, Director, IZ, Inc. dba IZ Food Mart, 2702 Valwood Parkway, Farmers Branch, Texas 75234 Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Dates of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 6, 2006</p> <p>Date of NOE Relating to this Case: October 16, 2006</p> <p>Background Facts: An EDPRP was filed on February 20, 2007. A signed Agreed Order was received on October 12, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to conduct daily and monthly inspections of the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to ensure that at least one Station representative received training in the operation and maintenance of the stage II vapor recovery system. Specifically, Stage II training for the Station representatives and the employees had not been completed [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to maintain records on-site of all required Stage I and Stage II records pertaining to a UST system and make immediately available for inspection by Commission personnel. Specifically, records were not available for review at the time of the investigation, including a copy of the applicable California Air Resources Board ("CARB") Executive Order(s) for the Stage II system, a daily inspection log, a maintenance log for any Stage II related repairs, monthly inspection records, and training records for the 	<p>Total Assessed: \$25,000</p> <p>Total Deferred: \$0</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid/Due to General Revenue: \$850/\$24,150</p> <p>The Respondent has paid \$850 of the administrative penalty. The remaining amount of \$24,150 of the administrative penalty shall be payable in thirty-five monthly payments of \$690 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken: The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:</p> <ol style="list-style-type: none"> As of October 4, 2006, submitted documentation to the DFW Regional Office verifying the installation of swivel adapters on the Stage I equipment and posted operating instructions on the front of each dispenser. As of October 4, 2006, submitted passing tank tests results to the DFW Regional Office verifying implementation of a method of release detection for the UST system. <p>Technical Requirements: The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, begin conducting effective manual or automatic inventory control procedures for all USTs. Within 30 days: <ol style="list-style-type: none"> Begin conducting daily and monthly inspections of the Stage II Vapor Recovery System; Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system; and Begin maintaining all Stage II records at the Station. Within 45 days, submit written certification and include detailed supporting documentation including photographs, receipts and/or other records to demonstrate compliance with Ordering Provisions Nos. 1 and 2.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Station representative including documentation of training for all other employees by the Station representative [30 TEX. ADMIN. CODE § 115.246(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4. Failed to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, there were no devices installed to prevent loosening or over tightening of the Stage I equipment [30 TEX. ADMIN. CODE § 115.242(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>5. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, there were no Stage II operating instructions posted at the dispenser [30 TEX. ADMIN. CODE § 115.242(9) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>6. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including tanks, piping, and other ancillary equipment. Specifically, the automatic tank gauge was not put into test mode at least once a month [30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>7. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day. Specifically, the Respondent was conducting inventory once per week instead of each day [30 TEX. ADMIN. CODE § 334.48(c)].</p>		

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision May 19, 2005

DATES	Assigned	16-Oct-2006		
	PCW	02-Jan-2007	Screening	17-Oct-2006
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	IZ, Inc. dba IZ Food Mart
Reg. Ent. Ref. No.	RN102239035
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	31480	No. of Violations	6
Docket No.	2006-1825-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Judy Kluge
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** \$25,000

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 due to 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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	<i>(mark with a small x)</i>

Notes: The respondent does not meet the good faith criteria.

Economic Benefit 0% Enhancement* **Subtotal 6** \$0

Total EB Amounts	\$96	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$2,950	

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$25,000

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 \$25,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$25,000

DEFERRAL 0% Reduction Adjustment \$0

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

Notes: This is not an expedited case.

PAYABLE PENALTY \$25,000

Screening Date 17-Oct-2006	Docket No. 2006-1825-PST-E	PCW
Respondent IZ, Inc. dba IZ Food Mart		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 31480		<i>PCW Revision May 19, 2005</i>
Reg. Ent. Reference No. RN102239035		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	<i>Enter Number Here</i>	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Other	<i>Please Enter Yes or No</i>		
	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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

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

Screening Date 17-Oct-2006	Docket No. 2006-1825-PST-E	PCW
Respondent IZ, Inc. dba IZ Food Mart	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31480	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102239035		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number <input type="text" value="1"/>		
Primary Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 115.244(1) and (3)"/>	
Secondary Rule Cite(s)	<input type="text" value="Tex. Health & Safety Code § 382.085(b)"/>	
Violation Description	<input type="text" value="Failed to conduct daily and monthly inspections of the Stage II vapor recovery system."/>	
Base Penalty		<input type="text" value="\$10,000"/>

>> **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" value="25%"/>
	Potential	<input type="text"/>	X	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Matrix Notes	<input type="text" value="Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health and environmental receptors as a result of the violation."/>				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>daily</i>	<input type="text"/>
<i>monthly</i>	<input type="text"/>
<i>quarterly</i>	X
<i>semiannual</i>	<input type="text"/>
<i>annual</i>	<input type="text"/>
<i>single event</i>	<input type="text"/>

mark only one use a small x

Violation Base Penalty

One quarterly event is recommended from the September 6, 2006 investigation date to the October 17, 2006 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$43"/>	Violation Final Penalty Total <input type="text" value="\$2,500"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,500"/>	

Economic Benefit Worksheet

Respondent IZ, Inc. dba IZ Food Mart
 Case ID No. 31480
 Reg. Ent. Reference No. RN102239035
 Media [Statute] Petroleum Storage Tank
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				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	06-Sep-2006	15-Jul-2007	0.9	\$43	n/a	\$43
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 expense for an employee to conduct daily and monthly inspections of the Stage II system. The date required is the investigation date and the final date is the estimated 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

TOTAL

Screening Date	17-Oct-2006	Docket No.	2006-1825-PST-E	PCW
Respondent	IZ, Inc. dba IZ Food Mart		Policy Revision 2 (September 2002)	
Case ID No.	31480		PCW Revision May 19, 2005	
Reg. Ent. Reference No.	RN102239035			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			
Violation Number	2			
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, Stage II training for the Station representative and the employees had not been completed.			
Base Penalty	\$10,000			

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

		Harm			
Release		Major	Moderate	Minor	
OR	Actual				Percent <input type="text" value="25%"/>
	Potential		X		

>> **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification				Percent <input type="text"/>
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health and environmental receptors as a result of the violation.				

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$2,500"/>
	monthly	<input type="text"/>	
	quarterly	X	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$21"/>	Violation Final Penalty Total <input type="text" value="\$2,500"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$2,500"/>	

Economic Benefit Worksheet

Respondent IZ, Inc. dba IZ Food Mart
 Case ID No. 31480
 Reg. Ent. Reference No. RN102239035
 Media [Statute] Petroleum Storage Tank
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	06-Sep-2006	15-Jul-2007	0.9	\$21	n/a	\$21
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 of training Stage II Station representative. The date required is the investigation date and the final date is the estimated 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

TOTAL

Screening Date	17-Oct-2006	Docket No.	2006-1825-PST-E	PCW
Respondent	IZ, Inc. dba IZ Food Mart	<i>Policy Revision 2 (September 2002)</i>		
Case ID No.	31480	<i>PCW Revision May 19, 2005</i>		
Reg. Ent. Reference No.	RN102239035			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			
Violation Number	3			
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.246(1) and (3)			
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)			
Violation Description	Failed to maintain records on-site of all required Stage I and Stage II records pertaining to a UST system and make immediately available for inspection by Commission personnel. Specifically, records were not available for review at the time of the investigation, including a copy of the applicable California Air Resources Board (CARB) Executive Order for the Stage II system, a daily inspection log, a maintenance log for any Stage II related repairs, monthly inspection records, and training records for the Station representative including documentation of training for all other employees by the Station representative.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix					
		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				Percent <input style="width: 50px;" type="text"/>
	Potential				
>> Programmatic Matrix					
		Major	Moderate	Minor	
	Falsification		x		Percent <input style="width: 50px;" type="text" value="25%"/>
Matrix Notes	100% of the rule requirement was not met.				
Adjustment				-\$7,500	

Base Penalty Subtotal	\$2,500
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Violation Events																	
Number of Violation Events		1															
<i>mark only one use a small x</i>	<table border="1" style="border-collapse: collapse;"> <tr><td style="padding: 2px;">daily</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">monthly</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">quarterly</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">semiannual</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">annual</td><td style="border: 1px solid black;"></td></tr> <tr><td style="padding: 2px;">single event</td><td style="border: 1px solid black; text-align: center;">x</td></tr> </table>	daily		monthly		quarterly		semiannual		annual		single event	x	Violation Base Penalty			\$2,500
daily																	
monthly																	
quarterly																	
semiannual																	
annual																	
single event	x																
One single event is recommended based on the September 6, 2006 investigation.																	

Economic Benefit (EB) for this violation	Statutory Limit Test	
Estimated EB Amount	\$9	
Violation Final Penalty Total		\$2,500
This violation Final Assessed Penalty (adjusted for limits)		\$2,500

Economic Benefit Worksheet

Respondent IZ, Inc. dba IZ Food Mart
 Case ID No. 31480
 Reg. Ent. Reference No. RN102239035
 Media [Statute] Petroleum Storage Tank
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$200	06-Sep-2006	15-Jul-2007	0.9	\$9	n/a	\$9
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 records as required. The date required is the investigation date and the final date is the estimated 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 TOTAL

Screening Date 17-Oct-2006	Docket No. 2006-1825-PST-E	PCW
Respondent IZ, Inc. dba IZ Food Mart	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31480	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102239035		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number 4		
Primary Rule Cite(s)	30 Tex. Admin. Code § 115.242(3)(A) and (9)	
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)	
Violation Description	<p>Failed to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, there were no devices installed to prevent loosening or over tightening of the Stage I equipment. Failed to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, there were no Stage II operating instructions posted at the dispensers.</p>	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix																	
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="3" style="text-align: center;">Harm</td> </tr> <tr> <td style="text-align: center;">Release</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Actual</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>	Harm			Release	Major	Moderate	Minor	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	Percent 25%
Harm																	
Release	Major	Moderate	Minor														
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>														
Potential	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>														
>> Programmatic Matrix																	
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Falsification</td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> <td style="text-align: center;"><input type="text"/></td> </tr> </table>	Falsification	Major	Moderate	Minor	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>							
Falsification	Major	Moderate	Minor														
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>														
Matrix Notes	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health and environmental receptors as a result of the violation.																
Adjustment		-\$7,500															

Base Penalty Subtotal	\$2,500
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Violation Events														
Number of Violation Events	1													
mark only one use a small x	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty \$2,500
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input checked="" type="checkbox"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
One quarterly event is recommended based on documentation of the violation during the September 6, 2006 investigation to the October 4, 2006 compliance date.														

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$3	Violation Final Penalty Total \$2,500
This violation Final Assessed Penalty (adjusted for limits) \$2,500	

Economic Benefit Worksheet

Respondent IZ, Inc. dba IZ Food Mart
 Case ID No. 31480
 Reg. Ent. Reference No. RN102239035
 Media [Statute] 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
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs							
Equipment	\$500	06-Sep-2006	04-Oct-2006	0.1	\$0	\$3	\$3
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to properly operate and maintain the Stage II vapor recovery system as specified. 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 \$500

TOTAL \$3

Screening Date	17-Oct-2006	Docket No.	2006-1825-PST-E	PCW
Respondent	IZ, Inc. dba IZ Food Mart		Policy Revision 2 (September 2002)	
Case ID No.	31480		PCW Revision May 19, 2005	
Reg. Ent. Reference No.	RN102239035			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Judy Kluge			
Violation Number	5			
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.50(a)(1)(A)			
Secondary Rule Cite(s)	Tex. Water Code § 26.3475(c)(1)			
Violation Description	Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including tanks, piping, and other ancillary equipment. Specifically, the automatic tank gauge was not put into test mode at least once per month.			
Base Penalty	\$10,000			

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				50%
Potential	X			

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent

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

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events

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

Violation Base Penalty \$5,000

One monthly event is recommended from the September 6, 2006 investigation date to the October 4, 2006 compliance date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$1	Violation Final Penalty Total \$5,000
This violation Final Assessed Penalty (adjusted for limits) \$5,000	

Economic Benefit Worksheet

Respondent IZ, Inc. dba IZ Food Mart
 Case ID No. 31480
 Reg. Ent. Reference No. RN102239035
 Media [Statute] Petroleum Storage Tank
 Violation No. 5

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				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)	\$250	06-Sep-2006	04-Oct-2006	0.1	\$1	n/a	\$1

Notes for DELAYED costs: Estimated cost to provide a method of release detection for the UST. 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 **\$250**

TOTAL \$1

Screening Date 17-Oct-2006	Docket No. 2006-1825-PST-E	PCW
Respondent IZ, Inc. dba IZ Food Mart	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31480	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN102239035		
Media [Statute] Petroleum Storage Tank		
Enf. Coordinator Judy Kluge		
Violation Number <input type="text" value="6"/>		
Primary Rule Cite(s)	30 Tex. Admin. Code § 334.48(c)	
Secondary Rule Cite(s)		
Violation Description	Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day. Specifically, IZ was conducting inventory once per week instead of each day.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix		
Harm		
	Release	Major Moderate Minor
OR	Actual	<input type="text"/> <input type="text"/> <input type="text"/>
	Potential	<input checked="" type="text"/> <input type="text"/> <input type="text"/>
		Percent <input type="text" value="50%"/>
>> Programmatic Matrix		
	Falsification	Major Moderate Minor
	<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>
		Percent <input type="text"/>
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health and environmental receptors as a result of the violation.	
Adjustment		<input type="text" value="-5,000"/>

Base Penalty Subtotal	<input type="text" value="\$5,000"/>
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Violation Events														
Number of Violation Events	<input type="text" value="2"/>													
<i>mark only one use a small x</i>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;"><i>daily</i></td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>monthly</i></td><td style="text-align: center;"><input checked="" type="text"/></td></tr> <tr><td style="text-align: center;"><i>quarterly</i></td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>semiannual</i></td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>annual</i></td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;"><i>single event</i></td><td style="text-align: center;"><input type="text"/></td></tr> </table>	<i>daily</i>	<input type="text"/>	<i>monthly</i>	<input checked="" type="text"/>	<i>quarterly</i>	<input type="text"/>	<i>semiannual</i>	<input type="text"/>	<i>annual</i>	<input type="text"/>	<i>single event</i>	<input type="text"/>	Violation Base Penalty <input type="text" value="\$10,000"/>
<i>daily</i>	<input type="text"/>													
<i>monthly</i>	<input checked="" type="text"/>													
<i>quarterly</i>	<input type="text"/>													
<i>semiannual</i>	<input type="text"/>													
<i>annual</i>	<input type="text"/>													
<i>single event</i>	<input type="text"/>													
Two monthly events are recommended from the September 6, 2006 investigation date to the October 17, 2006 screening date.														

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$19"/>	Violation Final Penalty Total <input type="text" value="\$10,000"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$10,000"/>	

Economic Benefit Worksheet

Respondent IZ, Inc. dba IZ Food Mart
 Case ID No. 31480
 Reg. Ent. Reference No. RN102239035
 Media [Statute] Petroleum Storage Tank
 Violation No. 6

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	\$500	06-Sep-2006	15-Jun-2007	0.8	\$19	n/a	\$19
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 conduct inventory control for all USTs involved in the retail sale of petroleum substances used as motor fuel. The date required is the investigation date and the final date is the estimated 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 \$500

TOTAL \$19

Compliance History

Customer/Respondent/Owner-Operator:	CN601602030 IZ, Inc.	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN102239035 IZ FOOD MART	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	5663
Location:	699 W RENNER RD, RICHARDSON, TX, 75080		Rating Date: 9/1/2006 Repeat Violator: NO
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	October 16, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 16, 2001 to October 16, 2006		

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

Name: Judy Kluge Phone: (817) 588-5825

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 10/13/2006 (513856)
- 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
ENFORCEMENT ACTION
AGAINST IZ, INC. DBA
IZ FOOD MART;
RN102239035**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-1825-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 IZ, Inc. dba IZ Food Mart ("IZ") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and IZ appear before the Commission and together stipulate that:

1. IZ owns and operates a convenience store with retail sales of gasoline located at 699 West Renner Road, Richardson, Collin County, Texas (the "Station").
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; TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and IZ agree that the Commission has jurisdiction to enter this Agreed Order, and that IZ is subject to the Commission's jurisdiction.
4. IZ received notice of the violation alleged in Section II ("Allegations") on or about October 21, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by IZ of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of twenty-five thousand dollars (\$25,000.00) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). IZ has paid eight hundred fifty dollars (\$850.00) of the administrative penalty. The remaining amount of twenty-four thousand one hundred fifty dollars (\$24,150.00) of the administrative penalty shall be payable in thirty-five monthly payments of six hundred ninety dollars (\$690.00) 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 IZ 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 IZ to meet the payment schedule of this Agreed Order constitutes the failure of IZ to timely and satisfactorily comply with all of 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 IZ 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 IZ has implemented the following corrective measures at the Station:
 - a. As of October 4, 2006, IZ submitted documentation to the Dallas/Fort Worth regional office verifying the installation of swivel adapters on the Stage I equipment and posted operating instructions on the front of each dispenser; and
 - b. As of October 4, 2006, IZ submitted passing tank test results to the Dallas/Fort Worth regional office verifying implementation of a method of release detection for the UST system.
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 IZ 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

IZ is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 115.244(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to conduct daily and monthly inspections of the Stage II vapor recovery system, as documented during an investigation conducted on September 6, 2006.
2. 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system. Specifically, Stage II training for the Station representative and the employees had not been completed, as documented during an investigation conducted on September 6, 2006.
3. 30 TEX. ADMIN. CODE § 115.246(1) and (3) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain records on-site of all required Stage I and Stage II records pertaining to a UST system and make immediately available for inspection by Commission personnel. Specifically, records were not available for review at the time of the investigation, including a copy of the applicable California Air Resources Board ("CARB") Executive Order(s) for the Stage II system, a daily inspection log, a maintenance log for any Stage II related repairs, monthly inspection records, and training records for the Station representative including documentation of training for all other employees by the Station representative, as documented during an investigation conducted on September 6, 2006.
4. 30 TEX. ADMIN. CODE § 115.242(3)(A), and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to provide and maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including, but not limited to absence or disconnection of any component that is a part of the approved system. Specifically, there were no devices installed to prevent loosening or over tightening of the Stage I equipment, as documented during an investigation conducted on September 6, 2006.
5. 30 TEX. ADMIN. CODE § 115.242(9), and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system. Specifically, there were no Stage II operating instructions posted at the dispenser, as documented during an investigation conducted on September 6, 2006.

6. 30 TEX. ADMIN. CODE § 334.50(a)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), by failing to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances including tanks, piping, and other ancillary equipment. Specifically, the automatic tank gauge was not put into test mode at least once per month, as documented during an investigation conducted on September 6, 2006.
7. 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel each operating day. Specifically, IZ was conducting inventory once per week instead of each day, as documented during an investigation conducted on September 6, 2006.

III. DENIALS

IZ generally denies each allegation in Section II (“Allegations”).

IV. ORDER

1. It is, therefore, ordered by the TCEQ that IZ pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and IZ’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 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: IZ, Inc. dba IZ Food Mart, Docket No. 2006-1825-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. IZ shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, IZ shall begin conducting effective manual or automatic inventory control procedures for all USTs, in accordance with 30 TEX. ADMIN. CODE § 334.48.

- b. Within 30 days after the effective date of this Agreed Order IZ shall:
- i. Begin conducting daily and monthly inspections of the Stage II Vapor Recovery System, in accordance with 30 TEX. ADMIN. CODE § 115.244;
 - ii. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in accordance 30 TEX. ADMIN. CODE § 115.248; and
 - iii. Begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246.
- c. Within 45 days after the effective date of this Agreed Order, IZ shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.b.iii.

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

with a copy to:

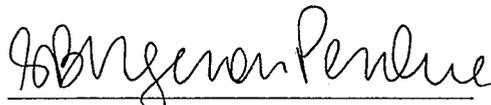
Mr. Samuel Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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

11/29/07

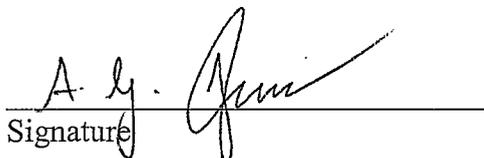
Date

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 IZ's failure to comply with the Ordering Provisions, if any, in this order and/or IZ's failure to timely pay the penalty amount, may result in:

- A negative impact on IZ's compliance history;
- Greater scrutiny of any permit applications submitted by IZ;
- 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 IZ;
- Automatic referral to the Attorney General's Office of any future enforcement actions against IZ; and
- TCEQ seeking other relief as authorized by law.

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


Signature

AHMAD HUSSAIN
Name (Printed or typed)
Authorized representative of
IZ, Inc. dba IZ Food Mart

9-27-07
Date

OFFICER
Title