

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2010-0944-PST-E **TCEQ ID:** RN101444172 **CASE NO.:** 39835  
**RESPONDENT NAME:** JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages

|   |   |  |
|---|---|--|
| <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                    |
| <p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Kwik Mart 3 Beverages, 2525 East Belknap Street, Fort Worth, Tarrant County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October 18, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b><br/> <b>TCEQ Attorney/SEP Coordinator:</b> None<br/> <b>TCEQ Enforcement Coordinator:</b> Mr. Thomas Greimel, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-5690; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495<br/> <b>Respondent:</b> Ms. Jung O. Kim, President, JD Cambridge Enterprise Inc, 2639 Walnut Hill Lane, Suite 225, Dallas, Texas 75229<br/> <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p> |   |  |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION  | PENALTY CONSIDERATIONS   | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|--|--|--|
| <p><b>Type of Investigation:</b><br/> <input type="checkbox"/> Complaint<br/> <input checked="" type="checkbox"/> Routine<br/> <input type="checkbox"/> Enforcement Follow-up<br/> <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 9, 2010</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 20, 2010 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failed to maintain the Stage II vapor recovery system in proper operating condition 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 or a system monitor or printer that is malfunctioning or out of paper. Specifically, the nozzle boot faceplate for dispenser no. 5 was missing and the Healy system monitor was out of paper [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2) Failed to verify proper operation of the Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> | <p><b>Total Assessed:</b> \$4,182</p> <p><b>Total Deferred:</b> \$836<br/> <input checked="" type="checkbox"/> Expedited Settlement<br/> <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$114 (remaining \$3,232 due in 32 monthly payments of \$101 each)</p> <p><b>Person Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Site Compliance History Classification</b><br/> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input 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 implemented the following corrective measures at the Station:</p> <p>a. Installed a nozzle boot faceplate on dispenser no. 5 on March 30, 2010;</p> <p>b. Equipped the Healy Stage II system monitor with paper on June 3, 2010; and</p> <p>c. Conducted the required annual testing of the Stage II equipment on March 30, 2010, with passing results.</p> |

Additional ID No(s): PST Facility ID 23452



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

|              |                             |                        |                             |                |
|--------------|-----------------------------|------------------------|-----------------------------|----------------|
| <b>DATES</b> | <b>Assigned</b> 24-May-2010 | <b>PCW</b> 18-Jun-2010 | <b>Screening</b> 4-Jun-2010 | <b>EPA Due</b> |
|--------------|-----------------------------|------------------------|-----------------------------|----------------|

## RESPONDENT/FACILITY INFORMATION

|                             |   |                           |       |
|-----------------------------|---|---------------------------|-------|
| <b>Respondent</b>           | JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN101444172   |                           |       |
| <b>Facility/Site Region</b> | 4-Dallas/Fort Worth                                   | <b>Major/Minor Source</b> | Minor |

## CASE INFORMATION

|                                |                        |                              |                    |
|--------------------------------|------------------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>        | 39835                  | <b>No. of Violations</b>     | 2                  |
| <b>Docket No.</b>              | 2010-0944-FST-E        | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>        | Petroleum Storage Tank | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>             |                        | <b>Enf. Coordinator</b>      | Thomas Greimel     |
|                                |                        | <b>EC's Team</b>             | Enforcement Team 7 |
| <b>Admin. Penalty \$ Limit</b> | Minimum \$0            | Maximum                      | \$10,000           |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,500**

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

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

**Compliance History** 25.0% Enhancement **Subtotals 2, 3, & 7** **\$875**

**Notes** Enhancement for one previous Notice of Violation ("NOV") with a same or similar violation and one order containing denial of liability.

**Culpability** No 0.0% Enhancement **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$725**

**Economic Benefit** 0.0% Enhancement **Subtotal 6** **\$0**

Total EB Amounts \$533  
Approx. Cost of Compliance \$570  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$3,650**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 14.6% **Adjustment** **\$532**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

**Final Penalty Amount** **\$4,182**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$4,182**

**DEFERRAL** 20.0% Reduction **Adjustment** **-\$836**

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

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$3,346**

Screening Date 4-Jun-2010

Docket No. 2010-0944-PST-E

PCW

Respondent JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverage

Policy Revision 2 (September 2002)

Case ID No. 39835

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101444172

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 1                 | 5%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)                                       | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |

Please Enter Yes or No

|       |   |    |    |
|-------|---|----|----|
| Other | Environmental management systems in place for one year or more  | No | 0% |
|       | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program       | No | 0% |
|       | Participation in a voluntary pollution reduction program  | No | 0% |
|       | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one previous Notice of Violation ("NOV") with a same or similar violation and one order containing denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 4-Jun-2010

Docket No. 2010-0944-PST-E

PCW

Respondent JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages

Policy Revision 2 (September 2002)

Case ID No. 39835

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101444172

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 115.242(3) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain the Stage II vapor recovery system in proper operating condition 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 or a system monitor or printer that is malfunctioning or out of paper. Specifically, the nozzle boot faceplate for dispenser no. 5 was missing and the Healy system monitor was out of paper.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 10%     |
| Potential |       | X        |       |         |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
|               |       |          |       | 0%      |

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 or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 86

|                         |              |   |
|-------------------------|--------------|---|
| mark only one with an x | daily        |   |
|                         | weekly       |   |
|                         | monthly      |   |
|                         | quarterly    | X |
|                         | semiannual   |   |
|                         | annual       |   |
|                         | single event |   |

Violation Base Penalty \$1,000

One quarterly event is recommended from the March 9, 2010 investigation date to the June 3, 2010 date of compliance.

Good Faith Efforts to Comply

10.0% Reduction

\$100

|          | Before NOV    | NOV to EDRP/Settlement |
|----------|---------------|------------------------|
|          | Extraordinary |                        |
| Ordinary |               | X                      |
| N/A      |               | (mark with x)          |

Notes The Respondent came into compliance on June 3, 2010.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,318

This violation Final Assessed Penalty (adjusted for limits) \$1,318

## Economic Benefit Worksheet

**Respondent:** JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages

**Case ID No.:** 39835

**Reg. Ent. Reference No.:** RN101444172

**Media:** Petroleum Storage Tank

**Violation No.:** 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

**Delayed Costs**

| Item Description         | Item Cost | Date Required | Final Date | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Equipment                | \$70      | 9-Mar-2010    | 3-Jun-2010 | 0.24 | \$0            | \$1           | \$1       |
| Buildings                |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)        |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Engineering/construction |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Land                     |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Record Keeping System    |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Training/Sampling        |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Remediation/Disposal     |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Permit Costs             |           |               |            | 0.00 | \$0            | n/a           | \$0       |
| Other (as needed)        |           |               |            | 0.00 | \$0            | n/a           | \$0       |

Notes for DELAYED costs

Estimated cost to provide paper for the Stage II vapor recovery system. Healy monitor and repair the nozzle boot faceplate. The Date Required is the investigation date. The Final Date is the date of compliance.

**Avoided Costs**

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

| Item Description              | Item Cost | Date Required | Final Date | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal                      |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Personnel                     |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Inspection/Reporting/Sampling |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Supplies/equipment            |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Financial Assurance [2]       |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| ONE-TIME avoided costs [3]    |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$70

TOTAL

\$1

Screening Date 4-Jun-2010

Docket No. 2010-0944-PST-E

PCW

Respondent JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages

Policy Revision 2 (September 2002)

Case ID No. 39835

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101444172

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Thomas Grelme!

Violation Number 2

Rule Cite(s)

30-Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | X     |          |       |

Percent 25%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

125 Number of violation days

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       | X |
| single event |   |

mark only one with an x

Violation Base Penalty \$2,500

One annual event is recommended for the period preceding the March 9, 2010 investigation.

Good Faith Efforts to Comply

25.0% Reduction

\$625

|               | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary |            |                               |
| Ordinary      | X          |                               |
| N/A           |            | (mark with x)                 |

Notes

The Respondent came into compliance on March 30, 2010, prior to the Notice of Enforcement dated May 20, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$532

Violation Final Penalty Total \$2,864

This violation Final Assessed Penalty (adjusted for limits) \$2,864

## Economic Benefit Worksheet

**Respondent** JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages

**Case ID No.** 39835

**Reg. Ent. Reference No.** RN101444172

**Media** Petroleum Storage Tank

**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost<br><small>No commas or \$</small> | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|
|------------------|---|---------------|------------|-----|----------------|---------------|-----------|

**Delayed Costs**

|                          |  |  |  |      |     |     |     |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment                |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Buildings                |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)        |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Land                     |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System    |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling        |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal     |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Permit Costs             |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Other (as needed)        |  |  |  | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

**Avoided Costs**

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

|                               |       |             |             |      |      |       |       |
|-------------------------------|-------|-------------|-------------|------|------|-------|-------|
| Disposal                      |       |             |             | 0.00 | \$0  | \$0   | \$0   |
| Personnel                     |       |             |             | 0.00 | \$0  | \$0   | \$0   |
| Inspection/Reporting/Sampling |       |             |             | 0.00 | \$0  | \$0   | \$0   |
| Supplies/equipment            |       |             |             | 0.00 | \$0  | \$0   | \$0   |
| Financial Assurance [2]       |       |             |             | 0.00 | \$0  | \$0   | \$0   |
| ONE-TIME avoided costs [3]    | \$500 | 23-Nov-2009 | 30-Mar-2010 | 1.27 | \$32 | \$500 | \$532 |
| Other (as needed)             |       |             |             | 0.00 | \$0  | \$0   | \$0   |

Notes for AVOIDED costs

Estimated avoided cost for conducting the required Stage II annual testing. The Date Required is the beginning date of ownership. The Final Date is the date of compliance.

Approx. Cost of Compliance

\$500

TOTAL

\$532

## Compliance History Report

|   |  |                         |                       |
|---|--|-------------------------|-----------------------|
| Customer/Respondent/Owner-Operator:   | CN603555889 JD Cambridge Enterprise Inc  | Classification: AVERAGE | Rating: 11.00         |
| Regulated Entity:   | RN101444172 Kwik Mart 3 Beverages        | Classification: AVERAGE | Site Rating: 11.00    |
| ID Number(s):   | PETROLEUM STORAGE TANK REGISTRATION      | REGISTRATION            | 23452                 |
| Location:   | 2525 E BELKNAP ST, FORT WORTH, TX, 76111 |                         |                       |
| TCEQ Region:  | REGION 04 - DFW METROPLEX                |                         |                       |
| Date Compliance History Prepared:   | June 07, 2010                            |                         |                       |
| Agency Decision Requiring Compliance History:   | Enforcement                              |                         |                       |
| Compliance Period:  | June 07, 2005 to June 07, 2010           |                         |                       |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History |  |                         |                       |
| Name:   | <u>Thomas Greimel</u>                    | Phone:                  | <u>(512) 239-5690</u> |

### 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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?
 

JD Cambridge Enterprise Inc  
 Wilshire State Bank  
 Jinnah Enterprise Corporation
4. If Yes, who was/were the prior owner(s)/operator(s) ?
 

11/23/2009  
 8/4/2009
5. When did the change(s) in owner or operator occur?
6. Rating Date: 9/4/2009 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- |                 |  |            |                 |
|-----------------|--|------------|-----------------|
| Effective Date: | 12/15/2005   | ADMINORDER | 2003-0849-PST-E |
| Classification: | Moderate   |            |                 |
| Citation:       | 30 TAC Chapter 37, SubChapter I 37.815(a)<br>30 TAC Chapter 37, SubChapter I 37.815(b) |            |                 |
| Description:    | Failure to demonstrate financial assurance.  |            |                 |
- 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 | 10/27/2005 | (434432) |
| 2 | 04/26/2007 | (554066) |
| 3 | 07/06/2007 | (562333) |
| 4 | 04/13/2009 | (737638) |
| 5 | 05/20/2010 | (795217) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- |              |   |                          |
|--------------|---|--------------------------|
| Date:        | 04/27/2007  | (554066)                 |
| Self Report? | NO  | Classification: Minor    |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.246(7)(A)  |                          |
| Description: | Failure to maintain records on-site and make immediately available for review upon request by authorized representatives of the executive director, EPA, or any local air pollution control program with jurisdiction at sites ordinarily manned during business hours. |                          |
| Self Report? | NO  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.245(2)   |                          |
| Description: | Late testing.   |                          |
| Self Report? | NO  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  |                          |
| Description: | The facility had not installed the CARB-approved devices, which prevent the loosening and/or over-lightening of the Stage I adapters.   |                          |
| Self Report? | NO  | Classification: Moderate |

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

Description: Failure to 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.

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  
JD CAMBRIDGE ENTERPRISE INC  
DBA KWIK MART 3 BEVERAGES  
RN101444172**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2010-0944-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 2525 East Belknap Street in Fort Worth, Tarrant County, Texas (the "Station").
2. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 25, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand One Hundred Eighty-Two Dollars (\$4,182) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid One Hundred Fourteen Dollars (\$114) of the administrative penalty and Eight Hundred Thirty-Six Dollars (\$836) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Three Thousand Two Hundred Thirty-Two Dollars (\$3,232) of the administrative penalty shall be payable in 32 monthly payments of One Hundred One Dollars (\$101) 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 the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent 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 the Respondent 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 the Respondent has implemented the following corrective measures at the Station:
  - a. Installed a nozzle boot faceplate on dispenser no. 5 on March 30, 2010;
  - b. Equipped the Healy Stage II system monitor with paper on June 3, 2010; and
  - c. Conducted the required annual testing of the Stage II equipment on March 30, 2010, with passing results.
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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

1. Failed to maintain the Stage II vapor recovery system in proper operating condition 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 or a system monitor or printer that is malfunctioning or out of paper, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 9, 2010. Specifically, the nozzle boot faceplate for dispenser no. 5 was missing and the Healy system monitor was out of paper.
2. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 9, 2010.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages, Docket No. 2010-0944-PST-E" to:  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
4. If the Respondent 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

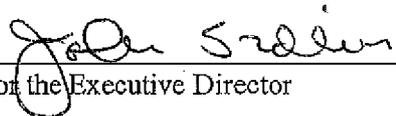
other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

\_\_\_\_\_  
Date 10/11/2010

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

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

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



\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 8/9/10

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
JD Cambridge Enterprise Inc dba Kwik Mart 3 Beverages

\_\_\_\_\_  
Title  
President

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

