

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-0689-PST-E TCEQ ID RN102834009 CASE NO. 37637
RESPONDENT NAME: D. LAKHANI INC. DBA KWIK STOP CENTER

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" 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 HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATIONS OCCURRED: 339 South Industrial Boulevard, Dallas, Dallas County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that the Respondent was not complying with the petroleum storage tank (PST) or Stage II recordkeeping requirements. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainant has not expressed a desire to protest this action or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The Texas Register comment period expired February 15, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Peipey Tang, Litigation Division, MC 175, (512) 239-0654
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Ms. Judy Kluge, Waste Enforcement Section, MC R-4, 817-588-5825

TCEQ Regional Contact: Mr. Sam Barrett, Dallas/Fort Worth Regional Office, MC R-4, 817-588-5903

Respondent: Mr. Mehmood Lakhani, President, D. Lakhani Inc., 339 S. Industrial Blvd., Dallas, Texas 75207

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

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: March 27, 2009</p> <p>Date of Investigation Relating to this Case: April 17, 2009</p> <p>Date of NOE Relating to this Case: May 5, 2009</p> <p>Background Facts: The EDPRP was filed on September 14, 2009. According to the return receipt "green card," the Respondent received notice of the EDPRP on September 15, 2009. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent corrected violation nos. 1 through 3 and 6 through 13. Respondent has not yet submitted documentation to certify compliance with two of the shutdown violations (nos. 4 and 5).</p> <p>PST:</p> <p>1. Failed to timely renew a previously issued underground storage tank (UST) delivery certificate by submitting a properly completed UST Registration and Self-Certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].</p> <p>2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>3. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p>	<p>Total Assessed: \$21,761</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$21,761</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent performed the following corrective actions at the Facility:</p> <ol style="list-style-type: none"> Submitted a properly completed UST Registration and Self-Certification form and obtained a TCEQ fuel delivery certificate; Demonstrated acceptable financial assurance by submitting a copy of a valid certificate of insurance with an effective date of April 29, 2009; Submitted documentation verifying that all USTs are being monitored by the statistical inventory reconciliation (SIR) method of analysis; Successfully conducted the required piping tightness and line leak detector tests; Replaced the fuel gauging stick; Properly marked the USTs according to the UST Registration and Self-Certification form; Replaced the midgrade unleaded spill bucket; Installed overfill prevention equipment on all three USTs; and Anchored the shear valves on dispenser nos. 3 and 4. <p>Ordering Provisions:</p> <p>The Respondent's UST delivery certificate is revoked immediately. The Respondent may submit an application for a new delivery certificate only after the Respondent has complied with the requirements set forth in the Order.</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately take the following steps to shut down operations of all USTs at the Facility:

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are functioning as designed [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>5. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].</p> <p>6. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>7. Failed to provide release detection for the piping associated with the USTs [30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a)].</p> <p>8. Failed to test the line leak detectors at least once per year for performance and operational reliability [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>9. Failed to have an accurate means of measuring the level of stored substance over the full range of the tank's height to the nearest one-eighth of an inch [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(II) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>10. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST Registration and Self-Certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>11. Failed to ensure that a spill containment device is designed to prevent the release of regulated substances to the environment when the transfer hose or line is detached from the spill pipe [30 TEX. ADMIN. CODE § 334.51(b)(2)(B) and TEX. WATER CODE § 26.3475(c)(2)].</p>		<p>a. Cease dispensing fuel from the USTs;</p> <p>b. Cease receiving deliveries of regulated substances into the USTs;</p> <p>c. Padlock the dispensers;</p> <p>d. Empty the USTs of all regulated substances; and</p> <p>e. Temporarily remove the USTs from service.</p> <p>2. Within 10 days, send its UST delivery certificate to the TCEQ.</p> <p>3. Within 15 days, submit a detailed written report documenting the steps taken to comply with Ordering Provision nos. 1 and 2.</p> <p>4. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that it has corrected violation nos. 4 and 5.</p> <p>5. If Respondent elects to permanently remove from service any USTs at the Facility, Respondent shall immediately remove the UST system; and if Respondent permanently removes any portion of the UST system from service, Respondent shall, within 15 days after the effective date of the Order, submit to the Commission a written report documenting compliance.</p> <p>6. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall:</p> <p>a. Begin conducting bimonthly inspections of the impressed current cathodic protection system to ensure that the rectifier and other system components are functioning as designed, and conduct the required triennial testing of the corrosion protection system; and</p>

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>12. Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>13. Failed to install an emergency shutoff valve on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser [30 TEX. ADMIN CODE § 334.45(c)(3)(A)].</p>		<p>b. Obtain a new delivery certificate from the TCEQ.</p> <p>7. Upon receiving a new delivery certificate, post the delivery certificate in a location where the document is clearly visible at all times.</p> <p>8. Within 10 days of resuming retail sales of gasoline, submit written certification to demonstrate compliance with Ordering Provision no. 6.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-May-2009			
	PCW	25-Aug-2009	Screening	12-May-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	D. LAKHANI INC. dba Kwik Stop Center				
Reg. Ent. Ref. No.	RN102834009				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37637	No. of Violations	8		
Docket No.	2009-0689-PST-E	Order Type	1660		
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Judy Kluge		
		EC's Team	Enforcement Team 6		
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$18,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$1,800
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Notes: Adjustment due to High Performer classification.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$3,840
 Approx. Cost of Compliance: \$6,625
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$16,200
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OTHER FACTORS AS JUSTICE MAY REQUIRE	34.3%	Adjustment	\$5,561
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 3, 4, and 5. Also, because this is a default order, the executive director recommends an upward adjustment to offset the reduction for compliance history.

Final Penalty Amount \$21,761

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$21,761
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$21,761
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Screening Date 12-May-2009 **Docket No.** 2009-0689-PST-E
Respondent D. LAKHANI INC. dba Kwik Stop Center
Case ID No. 37637
Reg. Ent. Reference No. RN102834009
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

PCW

Policy Revision 2 (September 2002)
 PCW Revision October 30, 2008

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

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance History Notes

Adjustment due to High Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 12-May-2009 Docket No. 2009-0689-PST-E PCW

Respondent D. LAKHANI INC. dba Kwik Stop Center Policy Revision 2 (September 2002)
Case ID No. 37637 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102834009

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description Failed to timely renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on May 31, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential			0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 1082 Number of violation days

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

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDP/PP/ Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$74 Violation Final Penalty Total \$1,209

This violation Final Assessed Penalty (adjusted for limits) \$1,209

Economic Benefit Worksheet

Respondent D. LAKHANI INC. dba Kwik Stop Center

Case ID No. 37637

Reg. Ent. Reference No. RN102834009

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
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No commas or \$

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	\$500	1-May-2006	17-Apr-2009	2.96	\$74	n/a	\$74
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 The delayed cost includes the estimated amount required to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days before the expiration date of May 31, 2006 and the final date is the compliance date.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$74

Screening Date 12-May-2009 **Docket No.** 2009-0689-PST-E **PCW**
Respondent D. LAKHANI INC. dba Kwik Stop Center *Policy Revision 2 (September 2002)*
Case ID No. 37637 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102834009
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)
Violation Description Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Facility received twelve deliveries of fuel without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	Potential	x	
				5%

>> Programmatic Matrix

				Percent
Falsification	Major	Moderate	Minor	0%

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

Adjustment \$9,500
\$500

Violation Events

Number of Violation Events 12 12 Number of violation days
 mark only one with an x
 daily _____
 weekly _____
 monthly _____
 quarterly _____
 semiannual _____
 annual _____
 single event x

Violation Base Penalty \$6,000

Twelve single events (one event per delivery) are recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$6,000

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$7,254

This violation Final Assessed Penalty (adjusted for limits) \$7,254

Economic Benefit Worksheet

Respondent D. LAKHANI INC. dba Kwik Stop Center

Case ID No. 37637

Reg. Ent. Reference No. RN102834009

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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

Economic benefit included in Violation No. 1.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 12-May-2009 **Docket No.** 2009-0689-PST-E **PCW**
Respondent D. LAKHANI INC. dba Kwik Stop Center *Policy Revision 2 (September 2002)*
Case ID No. 37637 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102834009
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)
Violation Description Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		x			10%

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 377 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,000

Three single events are recommended for the three USTs at the Facility.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

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

Estimated EB Amount \$2,048 Violation Final Penalty Total \$3,627

This violation Final Assessed Penalty (adjusted for limits) \$3,627

Economic Benefit Worksheet

Respondent D. LAKHANI INC. dba Kwik Stop Center

Case ID No. 37637

Reg. Ent. Reference No. RN102834009

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

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

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]	\$1,950	17-Apr-2008	29-Apr-2009	1.00	\$98	\$1,950	\$2,048
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum USTs (at \$650 per tank). The date required is twelve months prior to the investigation date and the final date is the date of compliance.

Approx. Cost of Compliance \$1,950

TOTAL \$2,048

Screening Date 12-May-2009 Docket No. 2009-0689-PST-E PCW

Respondent D. LAKHANI INC. dba Kwik Stop Center Policy Revision 2 (September 2002)

Case ID No. 37637 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102834009

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Judy Kluge

Violation Number 4
 Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4) and Tex. Water Code § 26.3475(d)

Violation Description
 Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are functioning as designed. Specifically, bimonthly inspections of the cathodic protection system were not being conducted. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
	Potential	x			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 25 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One monthly event is recommended based on the documentation of the violation during the April 17, 2009 investigation to the May 12, 2009 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.	

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$1,301 Violation Final Penalty Total \$3,022

This violation Final Assessed Penalty (adjusted for limits) \$3,022

Economic Benefit Worksheet

Respondent D. LAKHANI INC. dba Kwik Stop Center

Case ID No. 37637

Reg. Ent. Reference No. RN102834009

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

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
Triennial Testing	\$1,000	17-Apr-2006	17-Apr-2009	3.92	\$196	\$1,000	\$1,196
Bimonthly Inspections	\$100	16-Feb-2009	17-Apr-2009	1.08	\$5	\$100	\$105

Notes for AVOIDED costs

Estimated avoided cost for conducting bimonthly inspections and completing the triennial testing. The dates required are 60 days before the investigation and three years before the investigation respectively and the final date is the investigation date.

Approx. Cost of Compliance \$1,100

TOTAL \$1,301

Screening Date 12-May-2009 **Docket No.** 2009-0689-PST-E **PCW**
Respondent D. LAKHANI INC. dba Kwik Stop Center *Policy Revision 2 (September 2002)*
Case ID No. 37637 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102834009
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 5
Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2)(A), (b)(2)(A)(i)(III) and (d)(1)(B)(iii)(II) and Tex. Water Code § 26.3475(a) and (c)(1)
Violation Description Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, statistical inventory reconciliation ("SIR") was not being implemented. Failed to provide release detection for the piping associated with the USTs. Specifically, the required annual piping tightness test had not been conducted. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. Failed to have an accurate means of measuring the level of stored substance over the full range of the tank's height to the nearest one-eighth of an inch. Specifically, the fuel gauging stick was broken.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> 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

Violation Events \$2,500

Number of Violation Events: 1 12 Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended based on the documentation of the violation during the April 17, 2009 investigation to the April 29, 2009 compliance date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation **Statutory Limit Test**
 Estimated EB Amount \$414 Violation Final Penalty Total \$3,022
This violation Final Assessed Penalty (adjusted for limits) \$3,022

Economic Benefit Worksheet

Respondent D. LAKHANI INC. dba Kwik Stop Center

Case ID No. 37637

Reg. Ent. Reference No. RN102834009

Media 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
No commas or \$							

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)	\$1,500	17-Apr-2009	29-Apr-2009	0.03	\$2	n/a	\$2

Notes for DELAYED costs The estimated cost of monitoring all USTs for releases using SIR as a release detection method and to replace the fuel stick used for accurately measuring the level of the stored substance to the nearest one-eighth inch. The date required is the investigation date and the final date is the compliance date.

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]	\$375	17-Apr-2008	29-Apr-2009	1.95	\$37	\$375	\$412
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs Actual cost for piping tightness and line leak detector tests. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance	\$1,875	TOTAL	\$414
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Screening Date 12-May-2009 **Docket No.** 2009-0689-PST-E **PCW**
Respondent D. LAKHANI INC. dba Kwik Stop Center *Policy Revision 2 (September 2002)*
Case ID No. 37637 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102834009
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 6
Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)
Violation Description Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 12

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the April 17, 2009 investigation.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

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

Estimated EB Amount \$0 Violation Final Penalty Total \$1,209

This violation Final Assessed Penalty (adjusted for limits) \$1,209

Economic Benefit Worksheet

Respondent D. LAKHANI INC. dba Kwik Stop Center

Case ID No. 37637

Reg. Ent. Reference No. RN102834009

Media 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
No commas or \$							

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)	\$100	17-Apr-2009	29-Apr-2009	0.03	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to permanently affix a metal label to each UST fill tube. The date required is the investigation date and the final date is the compliance date.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$0

Screening Date 12-May-2009 **Docket No.** 2009-0689-PST-E **PCW**
Respondent D. LAKHANI INC. dba Kwik Stop Center *Policy Revision 2 (September 2002)*
Case ID No. 37637 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102834009
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 7

Rule Cite(s) 30 Tex. Admin. Code § 334.51(b)(2)(B) and (b)(2)(C) and Tex. Water Code § 26.3475(c)(2)

Violation Description
 Failed to ensure that a spill containment device is designed to prevent the release of regulated substances to the environment when the transfer hose or line is detached from the spill pipe. Specifically, the midgrade unleaded spill container was damaged. Also, failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity. Specifically, there was no overflow prevention equipment installed on any of the three USTs.

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

	1	12	Number of violation days
<i>mark only one with an x</i>	daily		
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the April 17, 2009 investigation to the April 29, 2009 compliance date.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

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

Estimated EB Amount \$1 **Violation Final Penalty Total** \$1,209

This violation Final Assessed Penalty (adjusted for limits) \$1,209

Economic Benefit Worksheet

Respondent D. LAKHANI INC. dba Kwik Stop Center

Case ID No. 37637

Reg. Ent. Reference No. RN102834009

Media Petroleum Storage Tank

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Other (as needed)				0.00	\$0	\$0	\$0
Overfill Prevention/Spill Bucket	\$600	17-Apr-2009	29-Apr-2009	0.03	\$0	\$1	\$1
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 of installing overfill prevention equipment and replacing the spill bucket. The date required is the investigation date and the final date is the compliance date.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 12-May-2009 **Docket No.** 2009-0689-PST-E **PCW**
Respondent D. LAKHANI INC. dba Kwik Stop Center *Policy Revision 2 (September 2002)*
Case ID No. 37637 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN102834009
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Judy Kluge

Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code § 334.45(c)(3)(A)
Violation Description Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves on dispenser nos. 3 and 4 were not securely anchored.

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

1 12 Number of violation days
 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 based on documentation of the violation during the April 17, 2009 investigation to the April 29, 2009 compliance date.

Good Faith Efforts to Comply 0.0% Reduction \$0

Before NOV NOV to EDPRP/Settlement Offer
 Extraordinary
 Ordinary
 N/A x (mark with x)
Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$1 **Violation Final Penalty Total** \$1,209

This violation Final Assessed Penalty (adjusted for limits) \$1,209

Economic Benefit Worksheet

Respondent D. LAKHANI INC. dba Kwik Stop Center

Case ID No. 37637

Reg. Ent. Reference No. RN102834009

Media Petroleum Storage Tank

Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	17-Apr-2009	29-Apr-2009	0.03	\$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 anchor the shear valves. The date required is the investigation date and the final date is the compliance date.

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]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$1

Compliance History Report

Customer/Respondent/Owner-Operator: CN602811218 D. LAKHANI INC. Classification: HIGH Rating: 0.00
Regulated Entity: RN102834009 Kwik Stop Centre Classification: HIGH Site Rating: 0.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 24714
Location: 339 S INDUSTRIAL BLVD, DALLAS, TX, 75207
TCEQ Region: REGION 04 - DFW METROPLEX
Date Compliance History Prepared: May 12, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 12, 2004 to May 12, 2009
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/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? D. LAKHANI INC.
4. If Yes, who was/were the prior owner(s)/operator(s)? Dearing & Dearing
5. When did the change(s) in owner or operator occur? 10/13/2005
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, 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 | 03/29/2005 | (375670) |
| 2 | 04/25/2005 | (378037) |
| 3 | 06/20/2005 | (396552) |
| 4 | 04/17/2009 | (742949) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
D. LAKHANI INC. DBA KWIK STOP	§	
CENTER;	§	ENVIRONMENTAL QUALITY
RN102834009		

DEFAULT AND SHUTDOWN ORDER
DOCKET NO. 2009-0689-PST-E

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent’s fuel delivery certificate. The Commission also considered the Executive Director’s Motion requesting entry of an Order requiring the respondent, D. Lakhani Inc. dba Kwik Stop Center (“D. Lakhani”), to shutdown or remove from service the Underground Storage Tanks (“USTs”) at the Kwik Stop Center facility, located at 339 South Industrial Boulevard, Dallas, Dallas County, Texas.

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. D. Lakhani owns and operates a convenience store with retail sales of gasoline located at 339 South Industrial Boulevard, Dallas, Dallas County, Texas (the “Facility”).
2. The USTs at the Facility contain regulated substances as defined in the Commission’s rules. The USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. On April 17, 2009, an investigator from the TCEQ Dallas/Fort Worth Office documented that D. Lakhani:

- a. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on May 31, 2006;
- b. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Facility received twelve deliveries of fuel without a delivery certificate;
- c. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs;
- d. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are functioning as designed. Specifically, bimonthly inspections of the cathodic protection system were not being conducted;
- e. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted;
- f. Failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring). Specifically, statistical inventory reconciliation ("SIR") was not being implemented;
- g. Failed to provide release detection for the piping associated with the USTs. Specifically, the required annual piping tightness test had not been conducted;
- h. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually;
- i. Failed to have an accurate means of measuring the level of stored substance over the full range of the tank's height to the nearest one-eighth of an inch. Specifically, the fuel gauging stick was broken;

- j. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form;
 - k. Failed to ensure that a spill containment device is designed to prevent the release of regulated substances to the environment when the transfer hose or line is detached from the spill pipe. Specifically, the midgrade unleaded spill container was damaged;
 - l. Failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity. Specifically, there was no overfill prevention equipment installed on any of the three USTs; and
 - m. Failed to install an emergency shutoff valve (also known as shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves on dispenser nos. 3 and 4 were not securely anchored.
- 4. By letter dated May 5, 2009 the TCEQ Dallas/Fort Worth Office provided D. Lakhani with notice of the violations and the TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, and corrosion protection regulations if the violations were not corrected.
 - 5. D. Lakhani received notice of the violations on or about May 10, 2009.
 - 6. The Executive Director recognizes that D. Lakhani implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on April 17, 2009;
 - b. Demonstrated acceptable financial assurance by submitting a copy of a valid certificate of insurance with an effective date of April 29, 2009;
 - c. On April 29, 2009, the TCEQ Dallas/Fort Worth Regional Office received documentation verifying that all USTs are being monitored by the SIR method of analysis;

- d. Successfully conducted the required piping tightness and line leak detector tests on April 29, 2009;
 - e. Replaced the fuel gauging stick on April 29, 2009;
 - f. Properly marked the USTs according to the UST registration and self-certification form on April 29, 2009;
 - g. Replaced the midgrade unleaded spill bucket on April 29, 2009;
 - h. Installed overfill prevention equipment on all three USTs on April 29, 2009; and
 - i. Anchored the shear valves on dispenser nos. 3 and 4 on April 29, 2009.
7. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of D. Lakhani Inc. dba Kwik Stop Center” (the “EDPRP”) in the TCEQ Chief Clerk’s office on September 14, 2009.
 8. By letter dated September 14, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served D. Lakhani with notice of the EDPRP. According to the return receipt “green card,” D. Lakhani received notice of the EDPRP on September 15, 2009, as evidenced by the signature on the card.
 9. More than 20 days have elapsed since D. Lakhani received notice of the EDPRP, provided by the Executive Director. D. Lakhani failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.
 10. By letter dated October 22, 2009, TCEQ provided D. Lakhani with notice of TCEQ’s intent to order the USTs at the Facility shut down and removed from service if D. Lakhani failed to correct the corrosion protection violations within 30 days after D. Lakhani’s receipt of the notice.
 11. As of the date of entry of this Order, D. Lakhani has not corrected the corrosion protection violations noted during the April 17, 2009, investigation.
 12. The USTs at the Facility do not have corrosion protection as required by 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4) and TEX. WATER CODE § 26.3475(d) and may be releasing petroleum products to the environment without the knowledge of the tank

owner or operator. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, D. Lakhani's USTs are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., D. Lakhani failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii).
3. As evidenced by Finding of Fact No. 3.b., D. Lakhani failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a).
4. As evidenced by Finding of Fact No. 3.c., D. Lakhani failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
5. As evidenced by Finding of Fact No. 3.d., D. Lakhani failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are functioning as designed, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d).
6. As evidenced by Finding of Fact No. 3.e., D. Lakhani failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d).
7. As evidenced by Finding of Fact No. 3.f., D. Lakhani failed to ensure that all USTs are monitored in a manner which will detect a release at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1).

8. As evidenced by Finding of Fact No. 3.g., D. Lakhani failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a).
9. As evidenced by Finding of Fact No. 3.h., D. Lakhani failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a).
10. As evidenced by Finding of Fact No. 3.i., D. Lakhani failed to have an accurate means of measuring the level of stored substance over the full range of the tank's height to the nearest one-eighth of an inch, in violation of 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(II) and TEX. WATER CODE § 26.3475(c)(1).
11. As evidenced by Finding of Fact No. 3.j., D. Lakhani failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).
12. As evidenced by Finding of Fact No. 3.k., D. Lakhani failed to ensure that a spill containment device is designed to prevent the release of regulated substances to the environment when the transfer hose or line is detached from the spill pipe, in violation of 30 TEX. ADMIN. CODE § 334.51(b)(2)(B) and TEX. WATER CODE § 26.3475(c)(2).
13. As evidenced by Finding of Fact No. 3.l., D. Lakhani failed to equip each tank with a valve or other device designed to automatically shut off the flow of regulated substances into the tank when the liquid level in the tank reaches no higher than 95% capacity, in violation of 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2).
14. As evidenced by Finding of Fact No. 3.m., D. Lakhani failed to install an emergency shutoff valve on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A).
15. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director timely served D. Lakhani with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

16. As evidenced by Finding of Fact No. 9, D. Lakhani failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against D. Lakhani and assess the penalty recommended by the Executive Director.
17. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against D. Lakhani for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
18. An administrative penalty in the amount of twenty-one thousand seven hundred sixty-one dollars (\$21,761.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
19. As evidenced by Finding of Fact No. 11, D. Lakhani failed to correct documented violations of Commission requirements within 30 days after D. Lakhani received notice of the violations and notice of the Executive Director's intent to shut down the Facility.
20. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overflow protection for tanks, corrosion protection for tanks and piping, and/or acceptable financial assurance.
21. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
22. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke D. Lakhani's UST delivery certificate if the Commission finds that good cause exists.
23. Good cause for revocation of D. Lakhani's UST delivery certificate exists as justified by Findings of Fact Nos. 3.a. through 3.m., 5, 7, 8, and 11, and Conclusions of Law Nos. 2 through 16.
24. As evidenced by Finding of Fact No. 12, current conditions at the Facility constitute an imminent peril to public health, safety and welfare. Therefore, pursuant to the

Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, D. Lakhani shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. D. Lakhani's UST delivery certificate is revoked immediately upon the effective date of this Order. D. Lakhani shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST Registration and Self-Certification form including the current ownership information, in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8. D. Lakhani may submit an application for a new delivery certificate only after D. Lakhani has complied with the requirements set forth in Ordering Provision Nos. 1, 3, 4, 6, 7, and 8.a.
3. Within 10 days after the effective date of this Order, D. Lakhani shall send its UST delivery certificate to:

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

4. Within 15 days after the effective date of this Order, D. Lakhani shall submit to the Executive Director a detailed written report documenting the steps it has taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 3. D. Lakhani shall submit the report 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:

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

5. D. Lakhani's USTs shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provision Nos. 1.a. through 1.e., until such time as D. Lakhani demonstrates to the satisfaction of the Executive Director that it has corrected the violations noted in Finding of Fact Nos. 3.d through 3.e and Conclusion of Law Nos. 5 through 6 as listed herein.
6. If D. Lakhani elects to permanently remove from service any USTs at the Facility, D. Lakhani shall immediately and permanently remove the UST system in accordance with 30 TEX. ADMIN. CODE § 334.55. If D. Lakhani permanently removes any portion of the UST system from service, D. Lakhani shall, within 15 days after the effective date of this Order, submit to the Commission a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55. D. Lakhani shall submit the written report to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

7. D. Lakhani is assessed an administrative penalty in the amount of twenty-one thousand seven hundred sixty-one dollars (\$21,761.00) for violations of state statutes and rules of

the TCEQ. The payment of this administrative penalty and D. Lakhani's compliance with all the terms and conditions set forth in this Order completely resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: D. Lakhani Inc. dba Kwik Stop Center; Docket No. 2009-0689-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

8. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, D. Lakhani shall:
 - a. Begin conducting bimonthly inspections of the impressed current cathodic protection system to ensure that the rectifier and other system components are functioning as designed and conduct the required triennial testing of the corrosion protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - b. Obtain a new delivery certificate from the TCEQ.
9. Upon obtaining a new delivery certificate, D. Lakhani shall post the delivery certificate in a location where the document is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
10. Within 10 days of resuming retail sales of gasoline, D. Lakhani 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. 8 and 9. The written 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:

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

11. All relief not expressly granted in this Order is denied.
12. The provisions of this Order shall apply to and be binding upon D. Lakhani, and D. Lakhani is ordered to give notice of this Order to personnel who maintain day to day control of the USTs at the Facility.
13. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to D. Lakhani if the Executive Director determines that D. Lakhani is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
14. This Order shall terminate five years from its effective date or when D. Lakhani demonstrates to the satisfaction of the Executive Director that it has corrected all of the violations noted herein, whichever is later.
15. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

D. Lakhani Inc. dba Kwik Stop Center
TCEQ Docket No. 2009-0689-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PEIPEY TANG

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Peipey Tang. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of D. Lakhani Inc. dba Kwik Stop Center” (the “EDPRP”) was filed with the Office of the Chief Clerk on September 14, 2009.

The EDPRP was mailed to D. Lakhani at its last known address on September 14, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt “green card,” D. Lakhani received notice of the EDPRP on September 15, 2009, as evidenced by the signature on the card.

More than 20 days have elapsed since D. Lakhani received notice of the EDPRP. D. Lakhani failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

By letter dated October 22, 2009, sent via first class mail and certified mail, return receipt requested article no. 7003 1680 0000 4274 0691, I provided D. Lakhani with notice of the TCEQ’s intent to order the USTs at the Facility shut down and removed from service if the violations pertaining to correct spill and overflow prevention; corrosion protection; and release detection were not corrected within 30 days of D. Lakhani’s receipt of the letter.

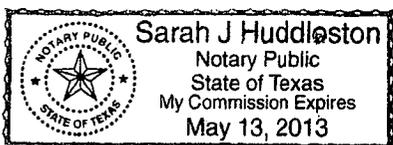
As of the date of this affidavit, I am not aware of any evidence that indicates that D. Lakhani has corrected the corrosion protection violations noted during the April 17, 2009, investigation.”

Peipey Tang

Peipey Tang, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Peipey Tang, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 18th day of December, A.D., 2009.



Sarah J Huddleston

Notary Signature