

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

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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: There was one complaint alleging that the Respondent did not conduct any of the petroleum storage tank (PST) or Stage II recordkeeping. 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 has expressed an interest in this matter.

COMMENTS RECEIVED: The Texas Register comment period expired April 26, 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 and Director, 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 EDRP was filed on September 14, 2009. Settlement was achieved and the Agreed Order was signed on February 19, 2010.</p> <p>Current Compliance Status: The Respondent corrected violation nos. 1 through 3 and 6 through 13. The Respondent has not yet submitted documentation to certify compliance with violation nos. 4 and 5. The Respondent's delivery certificate expires May 31, 2010.</p> <p>PST:</p> <ol style="list-style-type: none"> 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)]. 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)]. 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)]. 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>Total Assessed: \$16,086</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 Paid/Due to General Revenue: \$8,043/\$8,043</p> <p>The Respondent paid \$8,043 of the administrative penalty. The remaining amount of \$8,043 shall be payable in 1 monthly payment of \$8,043.</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 (violations 1 and 2); Demonstrated acceptable financial assurance by submitting a copy of a valid certificate of insurance with an effective date of April 29, 2009 (violation 3); Submitted documentation verifying that all USTs are being monitored by the SIR method of analysis (violation 6); Successfully conducted the required piping tightness and line leak detector tests (violations 7 and 8); Replaced the fuel gauging stick (violation 9); Properly marked the USTs according to the UST registration and self-certification form (violation 10); Replaced the midgrade unleaded spill bucket (violation 11); Installed overfill prevention equipment on all three USTs (violation 12); and Anchored the shear valves on dispenser nos. 3 and 4 (violation 13). <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirement:</p> <ol style="list-style-type: none"> Within 30 days, 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. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision No. 1.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<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>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>		



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	\$3,875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$3,840	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$6,625	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,325
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OTHER FACTORS AS JUSTICE MAY REQUIRE	30.5%	Adjustment	\$3,761
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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.

Final Penalty Amount **\$16,086**

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$16,086
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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	\$16,086
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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

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

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="0%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="text" value="x"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 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
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

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	x	Percent <input type="text" value="5%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	x

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	x	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 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

\$0

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 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	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential			

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification	x			

Matrix Notes 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 25.0% Reduction \$750

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

Notes The Respondent came into compliance on April 29, 2009, prior to the NOE dated May 5, 2009.

Violation Subtotal \$2,250

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

Estimated EB Amount \$2,048 **Violation Final Penalty Total** \$2,545

This violation Final Assessed Penalty (adjusted for limits) \$2,545

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	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
\$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** \$2,937

This violation Final Assessed Penalty (adjusted for limits) \$2,937

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

\$2,500

Violation Events

Number of Violation Events 1 12 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

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

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 April 29, 2009, prior to the NOE dated May 5, 2009.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$414

Violation Final Penalty Total \$2,121

This violation Final Assessed Penalty (adjusted for limits) \$2,121

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

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

OR	Harm				
	Release	Major	Moderate		Minor
	Actual				
	Potential				
				Percent 0%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
		x			Percent 10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 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 25.0% Reduction \$250

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

Notes The Respondent came into compliance on April 29, 2009, prior to the NOE dated May 5, 2009.

Violation Subtotal \$750

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

Estimated EB Amount \$0 **Violation Final Penalty Total** \$848

This violation Final Assessed Penalty (adjusted for limits) \$848

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

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

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

25.0% Reduction \$250

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

Notes The Respondent came into compliance on April 29, 2009, prior to the NOE dated May 5, 2009.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$848

This violation Final Assessed Penalty (adjusted for limits) \$848

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
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

\$600

TOTAL

\$1

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

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent <input type="text" value="10%"/>	
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
Potential	<input type="text"/>	x	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

Matrix Notes

Adjustment

Violation Events

Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	x
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	x	<input type="text"/>
N/A	<input type="text"/>	(mark with x)

Notes

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent 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 Center 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	§	BEFORE THE
AN ENFORCEMENT ACTION	§	
AGAINST D. LAKHANI INC. DBA	§	TEXAS COMMISSION ON
KWIK STOP CENTER;	§	
RN102834009	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0689-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding D. Lakhani Inc. dba Kwik Stop Center (“D. Lakhani”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and D. Lakhani appear before the Commission and together stipulate that:

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”). D. Lakhani’s three underground storage tanks (“USTs”) are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. D. Lakhani’s USTs contain a regulated petroleum substance as defined in the rules of the Commission.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and D. Lakhani agree that the Commission has jurisdiction to enter this Agreed Order, and that D. Lakhani is subject to the Commission’s jurisdiction.
4. D. Lakhani received notice of the violations alleged in Section II (“Allegations”) on or about May 10, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by D. Lakhani of any violation alleged in Section II (“Allegations”), nor of any statute or rule.
6. An administrative penalty in the amount of sixteen thousand eighty-six dollars (\$16,086.00) is assessed by the Commission in settlement of the violations alleged in Section II (“Allegations”). D. Lakhani paid eight thousand forty-three dollars (\$8,043.00)

of the administrative penalty. The remaining amount of eight thousand forty-three dollars (\$8,043.00) of the administrative penalty shall be payable in 1 monthly payment of eight thousand forty-three dollars (\$8,043.00). The monthly payment shall be paid within 30 days after the effective date of this Agreed Order. If D. Lakhani fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, D. Lakhani's failure to meet the payment schedule of this Agreed Order constitutes the failure by D. Lakhani to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and D. Lakhani 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 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. Submitted documentation verifying that all USTs are being monitored by the SIR method of analysis on April 29, 2009;
 - 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.

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 D. Lakhani 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

1. During an investigation conducted on April 17, 2009, a TCEQ Dallas/Forth Worth Regional Office investigator documented that D. Lakhani violated the following requirements:
 - a. 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii) by failing 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. 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a) by failing 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. 30 TEX. ADMIN. CODE § 37.815(a) and (b) by failing 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. 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d) by failing 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. 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d) by failing 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. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) by failing 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. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a) by failing to provide release detection for the piping associated with the USTs. Specifically, the required annual piping tightness test had not been conducted.
- h. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) by failing 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. 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(II) and TEX. WATER CODE § 26.3475(c)(1) by failing 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. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.
- k. 30 TEX. ADMIN. CODE § 334.51(b)(2)(B) and TEX. WATER CODE § 26.3475(c)(2) by failing 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. 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2) by failing 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.
- m. 30 TEX. ADMIN. CODE § 334.45(c)(3)(A) by failing 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.

III. DENIALS

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

IV. ORDER

1. It is, therefore, ordered by the TCEQ that D. Lakhani pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and D. Lakhani’s compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to “Texas Commission on Environmental Quality” and shall be sent with the notation “Re: 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

2. D. Lakhani shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, D. Lakhani shall 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. Within 45 days after the effective date of this Agreed Order, 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 No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and

am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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

3. The provisions of this Agreed Order shall apply to and be binding upon D. Lakhani. D. Lakhani is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If D. Lakhani 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, D. Lakhani’s failure to comply is not a violation of this Agreed Order. D. Lakhani shall have the burden of establishing to the Executive Director’s satisfaction that such an event has occurred. D. Lakhani shall notify the Executive Director within seven days after D. Lakhani 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 D. Lakhani shall be made in writing to the Executive Director. Extensions are not effective until D. Lakhani receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against D. Lakhani in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to D. Lakhani, or three days after the date on which the Commission mails notice of the Order to D. Lakhani, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

D. Lakhani Inc. dba Kwik Stop Center
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

5/2/2010
Date

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

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

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

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

[Signature]
Signature

04/29/2010
Date

Mehmad Lakhani
Name (Printed or typed)
Authorized representative of
D. Lakhani Inc. dba Kwik Stop Center

Title