

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2006-0861-AIR-E TCEQ ID RN100789197 CASE NO. 29964
RESPONDENT NAME: K & K TANK CLEANING SYSTEMS, INC.

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

SITE WHERE VIOLATION(S) OCCURRED: 2450 Cold Springs Road, Fort Worth, Tarrant County

TYPE OF OPERATION: Tanker truck cleaning facility

SMALL BUSINESS: Yes No

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

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired May 9, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Barham A. Richard, Litigation Division, MC 175, (512) 239-0107
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Ms. Kimberly Morales, Air Enforcement Section, MC R-12, (713) 422-8938

TCEQ Regional Contact: Ms. Alyssa Taylor, DFW Regional Office, MC R-4, (817) 588-5828

Respondent: Ms. Glenda Kincheloe, President, K & K Tank Cleaning Systems, Inc., 2450 Cold Springs Road,
Fort Worth, Texas 76106

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 type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 28, 2006</p> <p>Date of NOE Relating to this Case: June 5, 2006</p> <p>Background Facts: The EDP RP was filed on September 12, 2006. The Respondent filed an answer and the case was referred to SOAH. Discovery was exchanged and the parties engaged in numerous settlement negotiations. Settlement was achieved and the agreed order was signed on March 4, 2010.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>AIR: Failed to operate a flare and/or a carbon absorption system ("CAS") during tank cleaning operations which require such control devices, and failed to obtain a permit amendment prior to cleaning tanks that previously contained chemicals not on the Approved Chemical Lists of Air Permit No. 31434 or represented in Permit-by-Rule Registration No. 52863 [TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 106.6(b), 106.261, 106.262, 106.492, and 116.115(c); Air Permit No. 31434, Special Condition Nos. 11, 12, and 13; and Permit-by-Rule Registration No. 52863].</p>	<p>Total Assessed: \$10,440</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: \$290/10,150</p> <p>The Respondent paid \$290 of the administrative penalty. The remaining amount of \$10,150 shall be payable in 35 monthly payments of \$290 each.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Order Justification: An indifference to legal duty and the absence of management practices designed to ensure compliance.</p>	<p>Corrective Action Taken: The Executive Director recognizes that as of June 2007, the Plant is no longer in operation.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Jun-2006			
	PCW	12-Jan-2009	Screening	26-Jun-2006	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	K & K Tank Cleaning Systems, Inc.				
Reg. Ent. Ref. No.	RN100789197				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	29964	No. of Violations	1		
Docket No.	2006-0861-AIR-E	Order Type	Findings		
Media Program(s)	Air	Government/Non-Profit	No		
Multi-Media		Enf. Coordinator	Kimberly Morales		
		EC's Team	Enforcement Team 3		
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000	

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,000
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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	24.0% Enhancement	Subtotals 2, 3, & 7	\$1,440
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Notes: Penalty enhancement due to two unrelated NOVs and one Agreed Order with denial of liability.

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	50.0% Enhancement*	Subtotal 6	\$3,000
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Total EB Amounts: \$25,054
 Approx. Cost of Compliance: \$80,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,440
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$10,440**

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,440
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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:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$10,440
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Screening Date 26-Jun-2006

Docket No. 2006-0861-AIR-E

PCW

Respondent K & K Tank Cleaning Systems, Inc.

Policy Revision 2 (September 2002)

Case ID No. 29964

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100789197

Media [Statute] Air

Enf. Coordinator Kimberly Morales

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	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<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) 24%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes
 Penalty enhancement due to two unrelated NOVs and one Agreed Order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

Screening Date 26-Jun-2006 **Docket No.** 2006-0861-AIR-E **PCW**
Respondent K & K Tank Cleaning Systems, Inc. *Policy Revision 2 (September 2002)*
Case ID No. 29964 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100789197
Media [Statute] Air
Enf. Coordinator Kimberly Morales

Violation Number 1
Rule Cite(s) Air Permit No. 31434, Special Condition Nos. 11, 12, and 13; Permit-by-Rule Registration No. 52863; and 30 Tex. Admin. Code §§ 106.6(b), 106.261, 106.262, 106.492, and 116.115(c); Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to operate a flare and/or CAS during tank cleaning operations which require such control devices, and failure to obtain a permit amendment prior to cleaning tanks that previously contained chemicals not on the Approved Chemical Lists of Air Permit No. 31434 or represented in Permit-by-Rule Registration No. 52863. Specifically, a February 28, 2006 investigation documented that from 2003 to 2005 K & K Tank engaged in the cleaning of tanks which previously contained listed chemicals that require the use of a flare and/or CAS during cleaning operations, however no such control devices were installed at the facility. The February 28, 2006 investigation also documented that K & K Tank engaged in the cleaning of tanks from 2003 to 2005 which previously contained halogenated chemicals not on the Approved Chemical Lists, and which required an amendment to Air Permit No. 31434 prior to such cleaning.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	10%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes Human health or the environment have been exposed to insignificant amounts of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violations.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6 1095 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	6
annual	
single event	

Violation Base Penalty \$6,000

Six semiannual events are recommended.

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 \$6,000

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

Estimated EB Amount \$25,054 **Violation Final Penalty Total** \$10,440

This violation Final Assessed Penalty (adjusted for limits) \$10,440

Economic Benefit Worksheet

Respondent K & K Tank Cleaning Systems, Inc.
Case ID No. 29964
Reg. Ent. Reference No. RN100789197
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$80,000	1-Jan-2003	22-Jun-2007	4.50	\$1,193	\$23,861	\$25,054
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 install a flare and/or a CAS. Date required based on the earliest documentation of the violation. Final date based on the date the respondent ceased operations.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$80,000

TOTAL

\$25,054

Compliance History

Customer/Respondent/Owner-Operator:	CN600474977	K & K Tank Cleaning Systems, Inc.	Classification: AVERAGE	Rating: 12.17
Regulated Entity:	RN100789197	K & K TANK CLEANING SYSTEMS	Classification: AVERAGE	Site Rating: 12.17
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT		31434
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		TA3090R
	AIR NEW SOURCE PERMITS	PERMIT		52863
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		21702
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	ID NUMBER		34463
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXR000016386
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)		34463
Location:	2450 COLD SPRINGS RD, FORT WORTH, TX, 76106			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	June 23, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 12, 2001 to June 12, 2006			

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

Name: Rebecca Johnson Phone: (713) 422-8931

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 09/1/2005 Repeat Violator: No

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/13/2002

ADMINORDER 2000-0566-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 12 PERMIT
13 PERMIT

Description: Failed to operate a carbon absorption system (CAS) and flare during tank cleaning operations.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 20C PERMIT

Description: Failed to maintain records of calculated emissions for each chemical on a rolling 12 month basis.

- 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 11/24/2004 (339545)
- 2 07/01/2002 (3984)
- 3 07/08/2004 (275142)
- 4 07/23/2003 (27775)
- 5 10/05/2004 (336443)
- 6 06/05/2006 (457795)

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

Date: 07/08/2004 (275142)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(d)(1)

40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(c)(1)(i)

Description: Failure to keep containers in satellite accumulation closed or covered unless adding or removing wastes.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)[G]
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)

Description: Failure to accumulate Hazardous Waste in amounts less than 6.000 kg (13,200 lbs) at the site.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to permanently remove from service a UST along north side of main process building.

Date: 07/25/2003 (27775)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.62

Description: Failure to conduct a waste determination for each industrial solid waste generated.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)

30 TAC Chapter 335, SubChapter C 335.69(a)(2)

30 TAC Chapter 335, SubChapter C 335.69(a)(3)

30 TAC Chapter 335, SubChapter C 335.69(f)(4)[G]

Description: Failure to mark hazardous waste drums with the accumulation start date.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.13(i)

Description: Failure to maintain original (final) copy of all manifests.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)[G]

Description: Failure to adequately document changes or additional information with respect to the Notice of Registration.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
K & K TANK CLEANING
SYSTEMS, INC.;
RN100789197**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2006-0861-AIR-E**

At its _____ agenda, the Texas Commission on Environmental Quality (“Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding K & K Tank Cleaning Systems, Inc. (“K&K Tank”) under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and K&K Tank presented this agreement to the Commission.

K&K Tank understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, K&K Tank agrees to waive all notice and procedural rights.

It is further understood and agreed that this Agreed Order represents the complete and fully integrated agreement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon K&K Tank.

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

FINDINGS OF FACT

1. At the time of the violations, K&K Tank operated a tanker truck cleaning plant located at 2450 Cold Springs Road, Fort Worth, Tarrant County, Texas (the “Plant”).
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. During an investigation conducted on February 28, 2006, a TCEQ Dallas/Fort Worth Regional Office investigator documented that K&K Tank failed to operate a flare and/or a carbon absorption system (“CAS”) during tank cleaning operations which require such control devices, and failed to obtain a permit amendment prior to cleaning tanks that previously contained chemicals not on the Approved Chemical Lists of Air Permit No. 31434 and not represented in Permit-by-Rule Registration No. 52863. Specifically, from 2003 to 2005 K&K Tank engaged in the cleaning of tanks which previously contained listed chemicals that require the use of a flare and/or a CAS during cleaning operations; however, no such control devices were installed at the Plant. Also, K&K Tank engaged in the cleaning of tanks from 2003 to 2005 which previously contained halogenated chemicals not on the Approved Chemicals Lists, and which required an amendment to Air Permit No. 31434 prior to such cleaning.
4. K&K Tank received notice of the violations on or about June 10, 2006.
5. The Executive Director recognizes that as of June 2007, the Plant is no longer in operation.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, K&K Tank is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, K&K Tank failed to operate a flare and/or a CAS during tank cleaning operations which require such control devices, and failed to obtain a permit amendment prior to cleaning tanks that previously contained chemicals not on the Approved Chemical Lists of Air Permit No. 31434 or represented in Permit-by-Rule Registration No. 52863, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b); 30 TEX. ADMIN. CODE §§ 106.6(b), 106.261, 106.262, 106.492, and 116.115(c); Air Permit No. 31434, Special Condition Nos. 11, 12, and 13; and Permit-by-Rule Registration No. 52863.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against K&K Tank for violations of state statutes within the Commission’s jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

4. An administrative penalty in the amount of ten thousand four hundred forty dollars (\$10,440.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. K&K Tank paid two hundred ninety dollars (\$290.00) of the administrative penalty. The remaining amount of ten thousand one hundred fifty dollars (\$10,150.00) of the administrative penalty shall be payable in 35 monthly payments of two hundred ninety dollars (\$290.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. Each subsequent payment shall be remitted not later than 30 days following the due date of the previous payment. If K&K Tank fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of K&K Tank to meet the payment schedule of this Agreed Order constitutes the failure by K&K Tank to timely and satisfactorily comply with all of the terms of this Agreed Order.

ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that K&K Tank is assessed an administrative penalty in the amount of ten thousand four hundred forty dollars (\$10,440.00) as set forth in Conclusion of Law No. 4, above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and K&K Tank's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that 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: K & K Tank Cleaning Systems, Inc.; Docket No. 2006-0861-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon K&K Tank.
3. If K&K Tank 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, K&K Tank's failure to comply is not a violation of this Agreed Order. K&K Tank shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. K&K Tank shall notify the Executive Director within seven days after K&K Tank becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. 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 K&K Tank shall be made in writing to the Executive Director. Extensions are not effective until K&K Tank receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to K&K Tank if the Executive Director determines that K&K Tank has not complied with one or more of the terms or conditions in this Agreed Order.
6. 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.
7. This Agreed Order, issued by the Commission, shall not be admissible against K&K Tank 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.
8. 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.
9. 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 this Agreed Order to K&K Tank, or three days after the date on which the Commission mails notice of this Agreed Order to K&K Tank, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Wagner Penhew

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 K & K Tank Cleaning Systems, Inc., and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

Glenda Rincheloe
Signature

3/4/2010
Date

Glenda Rincheloe
Name (Printed or typed)
K & K Tank Cleaning Systems, Inc.

President
Title