

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-0532-PST-E TCEQ ID: RN102394160 CASE NO.: 35625  
RESPONDENT NAME: M. Y. M. INVESTMENT INC. DBA KWIK & SAVE FOOD STORE**

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

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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 VIOLATION(S) OCCURRED:** 5602 Allendale Road, Houston, Harris County

**TYPE OF OPERATION:** convenience store with retail sales of gasoline

**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 on June 12, 2010. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Xavier Guerra, Litigation Division, MC R-13, (210) 403-4016  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Steven Lopez, Waste Enforcement Section, MC 128, (512) 239-1896

**TCEQ Regional Contact:** Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

**Respondent:** Mr. Mansoor Ali Amlani, President, M. Y. M. Investment Inc., 5602 Allendale, Houston, Texas, 77017

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

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> February 21, 2008</p> <p><b>Date of NOE Relating to this Case:</b> March 10, 2008</p> <p><b>Background Facts:</b> The EDPRP was filed on September 26, 2008. Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the agreed order was signed on March 25, 2010.</p> <p><b>Current Compliance Status:</b> No outstanding technical requirements. Respondent's delivery certificate expires in August 2010.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to monitor release detection equipment associated with the USTs (piping tightness and line leak detectors [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</li> <li>Failed to verify proper operation of the Stage II vapor recovery system at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH &amp; SAFETY CODE § 382.085(a)].</li> </ol>	<p><b>Total Assessed:</b> \$5,364</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$149/\$5,215</p> <p>Respondent paid \$149 of the administrative penalty. The remaining amount of \$5,215 shall be payable in 35 monthly payments of \$149 each.</p> <p><b>Site Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b> Respondent performed the following corrective actions:</p> <ol style="list-style-type: none"> <li>Conducted a piping tightness test, with passing results;</li> <li>Tested the line leak detectors for performance and operational reliability, with passing results; and</li> <li>Tested the Stage II equipment, with passing results.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision February 29, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	17-Mar-2008			
	<b>PCW</b>	23-Mar-2010	<b>Screening</b>	24-Mar-2008	<b>EPA Due</b>

<b>RESPONDENT/FACILITY INFORMATION</b>					
<b>Respondent</b>	M.Y.M. INVESTMENT INC. dba Kwik & Save Food Store				
<b>Reg. Ent. Ref. No.</b>	RN102394160				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Minor		

<b>CASE INFORMATION</b>					
<b>Enf./Case ID No.</b>	35625	<b>No. of Violations</b>	2		
<b>Docket No.</b>	2008-0532-PST-E	<b>Order Type</b>	1660		
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Brianna Carlson		
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6		
<b>Admin. Penalty \$</b>	<b>Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000	

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,000
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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.

<b>Compliance History</b>	20% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,000
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Notes: Enhancement for one 1660 Agreed Order.

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

<b>Good Faith Effort to Comply</b>	25% Reduction	<b>Subtotal 5</b>	\$1,250
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent came into compliance on February 29, 2008, prior to the NOE dated March 10, 2008.

<b>Total EB Amounts</b>	\$614	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	\$0
<b>Approx. Cost of Compliance</b>	\$560	*Capped at the Total EB \$ Amount		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,750
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	13%	<b>Adjustment</b>	\$614
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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. 1 and 2.

<b>Final Penalty Amount</b>	\$5,364
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,364
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	\$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.

<b>PAYABLE PENALTY</b>	\$5,364
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Screening Date 24-Mar-2008

Docket No. 2008-0532-PST-E

PCW

Respondent M.Y.M. INVESTMENT INC. dba Kwik & Save Food Store

Policy Revision 2 (September 2002)

Case ID No. 35625

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102394160

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

### 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> )	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) 20%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 20%

Screening Date 24-Mar-2008

Docket No. 2008-0532-PST-E

PCW

Respondent M.Y.M. INVESTMENT INC. dba Kwik & Save Food Store

Policy Revision 2 (September 2002)

Case ID No. 35625

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102394160

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(2)(A)(i)(III) and Tex. Water Code § 26.3475(a)

Violation Description Failed to monitor release detection equipment associated with the USTs. Specifically, an annual piping tightness test was not conducted, and the line leak detectors were not tested at least once per year for performance and operational reliability.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

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 1 365 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$2,500

One annual event is recommended for the 12-month period preceding the February 21, 2008 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$230

Violation Final Penalty Total \$2,682

This violation Final Assessed Penalty (adjusted for limits) \$2,682

## Economic Benefit Worksheet

**Respondent** M.Y.M. INVESTMENT INC. dba Kwik & Save Food Store  
**Case ID No.** 35625  
**Reg. Ent. Reference No.** RN102394160  
**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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$210	21-Feb-2007	21-Feb-2008	1.9	\$20	\$210	\$230
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost to conduct annual piping tightness and line leak detector tests, per February 21, 2008 invoice. The Date Required is one year prior to the investigation date. The Final Date is the compliance date.

Approx. Cost of Compliance

\$210

**TOTAL**

\$230

Screening Date 24-Mar-2008

Docket No. 2008-0532-PST-E

PCW

Respondent M.Y.M. INVESTMENT INC. dba Kwik & Save Food Store

Policy Revision 2 (September 2002)

Case ID No. 35625

PCW Revision February 29, 2008

Reg. Ent. Reference No. RN102394160

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Brianna Carlson

Violation Number 2

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

Violation Description Failed to verify proper operation of the Stage II vapor recovery system at least once every 12 months.

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 1 365 Number of violation days

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$2,500

One annual event is recommended for the 12-month period preceding the February 21, 2008 investigation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$384

Violation Final Penalty Total \$2,682

This violation Final Assessed Penalty (adjusted for limits) \$2,682

## Economic Benefit Worksheet

**Respondent** M.Y.M. INVESTMENT INC. dba Kwik & Save Food Store  
**Case ID No.** 35625  
**Reg. Ent. Reference No.** RN102394160  
**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				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

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

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$350	21-Feb-2007	29-Feb-2008	1.9	\$34	\$350	\$384
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Actual cost to verify proper operation of the Stage II equipment, per February 21, 2008 invoice. The Date Required is one year prior to the investigation date. The Final Date is the compliance date.

Approx. Cost of Compliance

\$350

**TOTAL**

\$384

# Compliance History

Customer/Respondent/Owner-Operator:	CN601246317	M.Y.M. INVESTMENT INC.	Classification: AVERAGE	Rating: 16.60
Regulated Entity:	RN102394160	KWIK & SAVE FOOD STORE	Classification: AVERAGE	Site Rating: 16.60
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	45095	
Location:	5602 ALLENDALE RD, HOUSTON, TX, 77017		Rating Date: September 01 07 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	March 24, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	March 24, 2005 to March 24, 2008			

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

Name: Steven Lopez Phone: 512-257-1026

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.  
Effective Date: 08/29/2005 ADMINORDER 2004-1800-PST-E  
Classification: Major  
Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)  
30 TAC Chapter 37, SubChapter I 37.815(b)  
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 release arising from the operation of petroleum USTs.
- 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 04/04/2005 (371291)  
2 03/10/2008 (637748)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
- 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



<b>IN THE MATTER OF AN</b>	§	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	§	
<b>CONCERNING</b>	§	<b>TEXAS COMMISSION ON</b>
<b>M.Y.M. INVESTMENT INC. DBA</b>	§	
<b>KWIK &amp; SAVE FOOD STORE;</b>	§	<b>ENVIRONMENTAL QUALITY</b>
<b>RN102394160</b>	§	

**AGREED ORDER**  
**DOCKET NO. 2008-0532-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 M.Y.M. Investment Inc. dba Kwik & Save Food Store (“M.Y.M. Investment”) under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and M.Y.M. Investment appear before the Commission and together stipulate that:

1. M.Y.M. Investment owns and operates two underground storage tanks (“USTs”) and a convenience store with retail sales of gasoline located at 5602 Allendale Road, Houston, Harris County, Texas (the “Station”). M.Y.M. Investment’s USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. M.Y.M. Investment’s USTs contain a regulated petroleum substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The Commission and M.Y.M. Investment agree that the Commission has jurisdiction to enter this Agreed Order, and that M.Y.M. Investment is subject to the Commission’s jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by M.Y.M. Investment of any violation alleged in Section II (“Allegations”), nor of any statute or rule.

5. An administrative penalty in the amount of five thousand three hundred sixty-four dollars (\$5,364.00) is assessed by the Commission in settlement of the violations alleged in Section II. M.Y.M. Investment paid one hundred forty-nine dollars (\$149.00) of the administrative penalty. The remaining amount of five thousand two hundred fifteen dollars (\$5,215.00) of the administrative penalty shall be payable in 35 monthly payments of one hundred forty-nine dollars (\$149.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If M.Y.M. Investment 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, M.Y.M. Investment's failure to meet the payment schedule of this Agreed Order constitutes the failure by M.Y.M. Investment to timely and satisfactorily comply with all of the terms of this Agreed Order.
6. 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.
7. The Executive Director of the TCEQ and M.Y.M. Investment agree on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that M.Y.M. Investment implemented the following corrective measures at the Station in response to this enforcement action:
  - a. Conducted a piping tightness test on February 21, 2008, with passing results;
  - b. Tested the line leak detectors for performance and operational reliability on February 21, 2008 with passing results; and
  - c. Submitted documentation verifying that a complete Stage II compliance test was conducted on February 29, 2008, with passing results.
9. 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 M.Y.M. Investment has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. 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 February 21, 2008, a University of Texas at Arlington investigator documented that M.Y.M. Investment violated:
  - a. 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a) by failing to monitor release detection equipment associated with the USTs. Specifically, an annual piping tightness test was not conducted, and the line leak detectors were not tested at least once per year for performance and operational reliability; and
  - b. 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to verify proper operation of the Stage II vapor recovery system at least once every 12 months.
2. M.Y.M. Investment received notice of the violations on or about March 15, 2008.

## III. DENIALS

M.Y.M. Investment generally denies each allegation in Section II.

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that M.Y.M. Investment pay an administrative penalty as set forth in Section I, Paragraph 5, above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and M.Y.M. Investment'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: M.Y.M. Investment Inc. dba Kwik & Save Food Store, Docket No. 2008-0532-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon M.Y.M. Investment. M.Y.M. Investment is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against M.Y.M. Investment in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. 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.
5. 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 Agreed Order to M.Y.M. Investment, or three days after the date on which the Commission mails notice of this Agreed Order to M.Y.M. Investment, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

M.Y.M. Investment Inc. dba Kwik & Save Food Store  
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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
 For the Commission

*Bryson Penline*  
 For the Executive Director

6/25/2010  
 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 M.Y.M. Investment's compliance history;
- Greater scrutiny of any permit applications submitted by M.Y.M. Investment;
- 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 M.Y.M. Investment;
- Automatic referral to the Attorney General's Office of any future enforcement actions against M.Y.M. Investment; and
- TCEQ seeking other relief as authorized by law.

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

*Mansoor Azli Amlani*  
 Signature

03-25-10  
 Date

MAN SOOR AZLI AMLANI  
 Name (Printed or typed)  
 Authorized representative of  
 M.Y.M. Investment Inc. dba Kwik & Save Food Store

PRESIDENT  
 Title