

Mehmood Lakhani
RN101543346; RN102360716
Docket No. 2010-1858-PST-E

Order Type:

Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

805 W. Palestine Street, Hutchins, Dallas County; 110 N. Story Road, Irving, Dallas County

Type of Operation:

inactive underground storage tanks ("USTs")

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	\$17,120 (2002-0751-PST-E; referred to the Attorney General's office)
Past-Due Fees:	\$2,737.31 (Acct. No. 0042325U)
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date:

September 2, 2011

Comments Received:

None

Penalty Information**Total Penalty Assessed:** \$9,750**Amount Deferred for Expedited Settlement:** N/A**Amount Deferred for Financial Inability to Pay:** N/A**Total Paid to General Revenue:** \$300**Total Due to General Revenue:** \$9,450

Payment Plan: 35 payments of \$270 each

SEP Conditional Offset: N/A**Compliance History Classifications:**

Person/CN – Average

Site/RN – Average (Hutchins Facility); Poor (Irving Facility)

Major Source:

No

Statutory Limit Adjustment:

N/A

Applicable Penalty Policy:

September 2002

Mehmood Lakhani
RN101543346; RN102360716
Docket No. 2010-1858-PST-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: February 24, 2010 and September 22, 2010 (Hutchins Facility);
April 20, 2010 and November 16, 2010 (Irving Facility)
Date(s) of NOV(s): April 8, 2010 (Hutchins Facility); June 3, 2010 (Irving Facility)
Date(s) of NOE(s): November 2, 2010 (Hutchins Facility); November 23, 2010 (Irving Facility)

Violation Information

1. Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements at both Facilities [30 TEX. ADMIN. CODE § 334.47(a)(2)].
2. Failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons at both Facilities [30 TEX. ADMIN. CODE § 334.54(b)(2)].
3. Failed to ensure that any residue from stored regulated substances which remained in a temporarily out of service UST did not exceed 2.5 centimeters (“cm”) at the deepest point and did not exceed 0.3 percent by weight of the system at full capacity at the Irving Facility [TEX. ADMIN. CODE § 334.54(d)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:
N/A

Technical Requirements:

1. Within 30 days (at each Facility), either:
 - a. Permanently remove the UST system from service; or
 - b. Return the UST system to service in compliance with applicable upgrade requirements.
2. Within 45 days, submit written certification demonstrating compliance, as applicable.

Litigation Information

Date Petition(s) Filed: April 5, 2011
Date Answer(s) Filed: April 23, 2011
SOAH Referral Date: June 7, 2011
Hearing Date(s):
Preliminary hearing: July 28, 2011
Evidentiary hearing: N/A
Settlement Date: July 20, 2011

Mehmood Lakhani
RN101543346; RN102360716
Docket No. 2010-1858-PST-E

Contact Information

TCEQ Attorneys: Peipey Tang, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ SEP Coordinator: N/A

TCEQ Enforcement Coordinator: Bridgett Lee, Waste Enforcement Section, (512) 239-2565

TCEQ Regional Contact: Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5903

Respondent: Mehmood Lakhani, 2200 Pistachio Drive, Irving, Texas 75063

Respondent's Attorney: N/A

THIS PAGE INTENTIONALLY LEFT BLANK



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	8-Nov-2010			
	PCW	4-Mar-2011	Screening	12-Nov-2010	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	Mehmood Lakhani (Facility 1)			
Reg. Ent. Ref. No.	RN101543346			
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor	

CASE INFORMATION

Enf./Case ID No.	40717	No. of Violations	1
Docket No.	2010-1858-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Bridgett Lee
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$250
Notes	Enhancement for one previous notice of violation with same/similar violation.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$7,843	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$12,550		

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$5,250**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes		Final Penalty Amount	\$5,250
-------	--	-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$5,250**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

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 **\$5,250**

Screening Date 12-Nov-2010

Docket No. 2010-1858-PST-E

PCW

Respondent Mehmood Lakhani (Facility 1)

Policy Revision 2 (September 2002)

Case ID No. 40717

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101543346

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

Compliance History Worksheet

>> Compliance History *Site Enhancement* (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	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) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one previous notice of violation with same/similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 12-Nov-2010
Respondent Mehmood Lakhani (Facility 1)
Case ID No. 40717
Reg. Ent. Reference No. RN101543346
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Bridgett Lee

Docket No. 2010-1858-PST-E

PCW

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

Violation Number

Rule Cite(s)

Violation Description
 Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, an underground storage tank ("UST") system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. Also, failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the fill caps and the vent lines were not secured.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="25%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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

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" value="x"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Two monthly events are recommended from the September 22, 2010 investigation date to the November 12, 2010 screening date.

Good Faith Efforts to Comply

Reduction

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

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

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 Mehmood Lakhani (Facility 1)
Case ID No. 40717
Req. Ent. Reference No. RN101543346
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				0.00	\$0	n/a	\$0
Other (as needed)	\$12,550	22-Dec-1998	19-Jun-2011	12.50	\$7,843	n/a	\$7,843

Notes for DELAYED costs

Estimated cost to permanently remove from service four USTs with a combined capacity of 12,550 gallons at \$1.00 per gallon. The date required is the required date to upgrade the UST system. The final date is the estimated date of compliance.

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

\$12,550

TOTAL

\$7,843



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	22-Nov-2010	Screening	29-Nov-2010	EPA Due	
	PCW	29-Nov-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Mehmood Lakhani (Facility 2)		
Reg. Ent. Ref. No.	RN102360716		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	40717	No. of Violations	1
Docket No.	2010-1858-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Bridgett Lee
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30.0%	Enhancement	Subtotals 2, 3, & 7	\$750
Notes	Enhancement for one NOV with same/similar violations and one Default Order.			
Culpability	No	0.0%	Enhancement	Subtotal 4
Notes	The Respondent does not meet the culpability criteria.			
Good Faith Effort to Comply Total Adjustments			Subtotal 5	\$0
Economic Benefit	50.0%	Enhancement*	Subtotal 6	\$1,250
Total EB Amounts	\$19,352	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$31,000			

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$4,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$4,500**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$4,500**

DEFERRAL **0.0%** **Reduction** **Adjustment** **\$0**

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 **\$4,500**

Screening Date 29-Nov-2010

Docket No. 2010-1858-PST-E

PCW

Respondent Mehmood Lakhani (Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 40717

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102360716

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	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	1	25%
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) 30%

>> 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 NOV with same/similar violations and one Default Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 29-Nov-2010

Docket No. 2010-1858-PST-E

PCW

Respondent Mehmood Lakhani (Facility 2)

Policy Revision 2 (September 2002)

Case ID No. 40717

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102360716

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 334.47(a)(2), 334.54(b)(2), and 334.54(d)(2)

Violation Description Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, an underground storage tank ("UST") system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements. Failed to maintain piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Failed to ensure that any residue from stored regulated substances which remained in a temporarily out of service UST did not exceed 2.5 centimeters at the deepest point and did not exceed 0.3 percent by weight of the system at full capacity. Specifically, one tank held 17.78 centimeters of fuel, a second gasoline tank held 15.24 centimeters of fuel, and a diesel tank held 7.62 centimeters of fuel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 Number of violation days 13

Table for frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$2,500

One monthly event is recommended for the period from the November 16, 2010 record review date to the November 29, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked 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 \$19,352

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet

Respondent Mehmood Lakhani (Facility 2)
Case ID No. 40717
Req. Ent. Reference No. RN102360716
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				0.00	\$0	n/a	\$0
Other (as needed)	\$31,000	22-Dec-1998	14-Jun-2011	12.48	\$19,352	n/a	\$19,352

Notes for DELAYED costs

Estimated cost to permanently remove from service four USTs with a combined total capacity of 31,000 gallons at \$1 per gallon. The date required is the required date to upgrade the UST system. The final date is the estimated date of compliance.

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

	\$31,000
--	----------

TOTAL

	\$19,352
--	----------

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600812457 Lakhani, Mehmood	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN101543346 Hutchins Fina	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	21870
Location:	805 W PALESTINE ST, HUTCHINS, TX, 75141		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	November 12, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	November 12, 2005 to November 12, 2010		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	<u>Bridgett Lee</u>	Phone:	<u>239 - 2565</u>

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator:

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	04/08/2010	(793803)	
2	11/02/2010	(866192)	
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	04/08/2010	(793803)	CN600812457
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.47(a)(2)		
Description:	Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing underground storage tank (UST) system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.54(b)(2)		
Description:	Failure to secure USTs against tampering, vandalism or unauthorized access.		
 - 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

THIS PAGE INTENTIONALLY LEFT BLANK

Compliance History

Customer/Respondent/Owner-Operator: CN600812457 LAKHANI, MEHMOOD Classification: AVERAGE Rating: 3.00
 Regulated Entity: RN102360716 KP FOOD MART Classification: POOR Site Rating: 306.00
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 21877
 Location: 110 N STORY RD, IRVING, TX, 75061
 TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: November 29, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 29, 2005 to November 29, 2010

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

Name: Bridgett Lee Phone: 239 - 2565

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? OPR PJK INC
4. If Yes, who was/were the prior owner(s)/operator(s)?
 OWNOPR PJK INC
 OWNOPR SIDDIQUI, AMBREEN
 OWNOPR RAJANI, INAYAT
5. When did the change(s) in owner or operator occur?
 10/01/2008 OWNOPR RAJANI, INAYAT
 06/11/2010 OWNOPR SIDDIQUI, AMBREEN
 09/15/2010 OWNOPR PJK INC
6. Rating Date: 9/1/2010 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.

Effective Date: 05/28/2006

ADMINORDER 2002-0751-PST-E

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain records on-site at facility ordinarily manned during business hours.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to conduct pressure decay testing annually and in accordance with test procedures referenced in 115.245(1).

Classification: Moderate

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

30 TAC Chapter 115, SubChapter C 115.242(3)(B)

30 TAC Chapter 115, SubChapter C 115.242(4)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to ensure that no gasoline leaks existed anywhere in the dispensing equipment and failure to provide and maintain the Stage II vapor recovery system in proper operating condition.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)

30 TAC Chapter 334, SubChapter C 334.49(a)

Description: Failure to install a method of corrosion protection for the UST system.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to provide amended registration for any changes or additional information regarding USTs within

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.346(a)

30 TAC Chapter 334, SubChapter A 334.8(c)(4)(B)

Description: Failure to complete an Underground Storage Tank and Self-Certification form with all the applicable information requested on the agency's authorized form.

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to demonstrate financial responsibility for taking corrective action and compensating 3rd parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failure to provide proper release detection for the product piping associated with UST systems. "Pressurized" underground product piping not being monitored for releases and failed to ensure that all tanks were monitored for releases at a frequency of at least once every month.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)(1)(B)

Description: Failure to provide PST records upon request by TNRCC staff. No delivery manifest, delivery
Classification: Minor

Citation: 2A TWC Chapter 5, SubChapter A 5.702
2D TWC Chapter 26, SubChapter A 26.358
30 TAC Chapter 334, SubChapter B 334.22(a)

Description: Failure to pay UST annual fees and associated late fees for Account No. 42325U.

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 06/04/2010 (796378)
2 11/19/2010 (877901)

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

Date: 06/03/2010 (796378) CN600812457

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to provide amended registration for any change or additional information regarding underground storage tanks (USTs) within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(d)(2)

Description: Failure to empty an underground storage tank (UST) of any remaining residue to less than 2.5 centimeters (1 inch) at the deepest point.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)(2)

Description: Failure to secure USTs against tampering, vandalism or unauthorized access.

Self Report? NO Classification: Moderate

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

Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing underground storage tank (UST) system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

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
MEHMOOD LAKHANI;
RN101543346, RN102360716**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER

DOCKET NO. 2010-1858-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding Mehmood Lakhani ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent appear before the Commission and together stipulate that:

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(73), an underground storage tank ("UST") system and a former gas station located at 805 W. Palestine St. in Hutchins, Dallas County, Texas ("Facility 1"). Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(73), a UST system and a former gas station located at 110 N. Story Rd. in Irving, Dallas County, Texas ("Facility 2"). The USTs at Facility 1 and Facility 2 (the "Facilities") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
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 Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent 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 Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of nine thousand seven hundred fifty dollars (\$9,750.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred dollars (\$300.00) of the administrative penalty. The remaining amount of nine thousand four hundred fifty dollars (\$9,450.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of two hundred seventy dollars (\$270.00) 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 Respondent 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, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent 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 Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to the approval of the Commission.
8. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
9. 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.
10. 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 of Facility 1 conducted on February 24, 2010, and an investigation conducted on September 22, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2); and
 - b. Failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the fill caps and vent lines were not secured, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2).
2. During an investigation of Facility 2 conducted on April 20, 2010, and a record review conducted on November 16, 2010, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to permanently remove from service, no later than 60 days after the prescribed implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2);

- b. Failed to maintain all piping, pumps, manways, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2); and
 - c. Failed to ensure that any residue from stored regulated substances which remained in a temporarily out of service UST did not exceed 2.5 centimeters ("cm") at the deepest point and did not exceed 0.3 percent by weight of the system at full capacity. Specifically, one UST contained 17.78 cm of fuel, a second UST contained 15.24 cm of fuel, and a diesel UST contained 7.62 cm of fuel, in violation 30 TEX. ADMIN. CODE § 334.54(d)(2).
3. Respondent received notice of the violations alleged in Section II, paragraphs 1.a. through 1.b. on or about April 13, 2010 and November 7, 2010. Respondent received notice of the violations alleged in Section II, paragraphs 2.a. through 2.c. on or about June 8, 2010 and November 28, 2010.

III. DENIALS

Respondent generally denies each Allegation in Section II.

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions 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: Mehmood Lakhani, Docket No. 2010-1858-PST-E" to:

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

2. Respondent shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, Respondent shall, at each Facility, either:
 - i. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; or
 - ii. Return to the UST system to service in compliance with the upgrade requirements of 30 TEX. ADMIN. CODE § 334.54.

- b. Within 45 days after the effective date of this Agreed Order, Respondent shall submit written certification and 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 shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

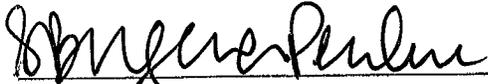
3. All relief not expressly granted in this Agreed Order is denied.
4. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Agreed Order.
5. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Pursuant to 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 Respondent, or three days after the date on which the Commission mails notice of this Agreed Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/13/2011

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

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



Signature - Mehmood Lakhani
Mehmood Lakhani

09/20/2011

Date