

**Executive Summary – Enforcement Matter – Case No. 43029**  
**H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C**  
**RN101545218**  
**Docket No. 2011-2207-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Kwik Stop Beer & Wine C, 205 South Carroll Avenue, Dallas, Dallas County

**Type of Operation:**

Convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 27, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$20,105

**Amount Deferred for Expedited Settlement:** \$4,021

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$474

**Total Due to General Revenue:** \$15,610

Payment Plan: 35 payments of \$446 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 43029  
H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C  
RN101545218  
Docket No. 2011-2207-PST-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** June 14, 2011 and November 18, 2011

**Date(s) of NOE(s):** November 18, 2011

***Violation Information***

1. Failed to renew a previously issued underground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on March 31, 2006 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].
3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
4. Failed to provide release detection for the piping associated with the USTs. Specifically, Respondent did not conduct the annual piping tightness test [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following corrective measures at the Facility:

- a. Submitted a properly completed UST registration and self-certification form and obtained a delivery certificate which became valid on December 28, 2011.
- b. Implemented a release detection method for all USTs at the Facility on December 28, 2011; and
- c. Successfully conducted the annual piping tightness test on June 28, 2011.

**Technical Requirements:**

N/A

**Executive Summary – Enforcement Matter – Case No. 43029  
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Docket No. 2011-2207-PST-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jorge Ibarra, P.E., Enforcement Division,  
Enforcement Team 3, MC 169, (817) 588-5890; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Kang Lin, Operations Manager, H & K BEVERAGE CORP., 2513  
Larkspur Lane, Rowlett, Texas 75089  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

|              |                 |             |                  |             |                |  |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 21-Nov-2011 | <b>Screening</b> | 28-Nov-2011 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 28-Nov-2011 |                  |             |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |  |                           |       |
|-----------------------------|--|---------------------------|-------|
| <b>Respondent</b>           | H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C |                           |       |
| <b>Reg. Ent. Ref. No.</b>   | RN101545218                                      |                           |       |
| <b>Facility/Site Region</b> | 4-Dallas/Fort Worth                              | <b>Major/Minor Source</b> | Major |

## CASE INFORMATION

|  |                        |                              |                    |
|--|------------------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 43029                  | <b>No. of Violations</b>     | 3                  |
| <b>Docket No.</b>                      | 2011-2207-PST-E        | <b>Order Type</b>            | 1660               |
| <b>Media Program(s)</b>                | Petroleum Storage Tank | <b>Government/Non-Profit</b> | No                 |
| <b>Multi-Media</b>                     |                        | <b>Enf. Coordinator</b>      | Charlie Lockwood   |
|  |                        | <b>EC's Team</b>             | Enforcement Team 6 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0                    | <b>Maximum</b>               | \$10,000           |

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance  *\*Capped at the Total EB \$ Amount*

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

Screening Date 28-Nov-2011

Docket No. 2011-2207-PST-E

PCW

H & K BEVERAGE CORP. dba Kwik Stop Beer &

Respondent Wine C

Policy Revision 2 (September 2002)

Case ID No. 43029

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101545218

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Charlie Lockwood

### 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> )  | 0                 | 0%      |
|                               | Other written NOVs   | 1                 | 2%      |
| 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)**

>> Repeat Violator (Subtotal 3)

**Adjustment Percentage (Subtotal 3)**

>> Compliance History Person Classification (Subtotal 7)

**Adjustment Percentage (Subtotal 7)**

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)**

Screening Date 28-Nov-2011

Docket No. 2011-2207-PST-E

PCW

Respondent H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C

Policy Revision 2 (September 2002)

Case ID No. 43029

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101545218

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Charlie Lockwood

Violation Number 1

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

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

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (25%).

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 6 Number of violation days 2068

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

Violation Base Penalty \$15,000

Six annual events are recommended.

Good Faith Efforts to Comply

10.0% Reduction \$1,500

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with X), N/A.

Notes The Respondent came into compliance on December 28, 2011, after the Notice of Enforcement ("NOE") dated November 18, 2011.

Violation Subtotal \$13,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$658

Violation Final Penalty Total \$14,361

This violation Final Assessed Penalty (adjusted for limits) \$14,361

# Economic Benefit Worksheet

**Respondent** H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C  
**Case ID No.** 43029  
**Req. Ent. Reference No.** RN101545218  
**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 |
|--------------------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| <small>No commas or \$</small> |           |               |            |     |                |               |           |

**Delayed Costs**

|                          |       |             |             |      |     |     |     |
|--------------------------|-------|-------------|-------------|------|-----|-----|-----|
| Equipment                |       |             |             | 0.00 | \$0 | \$0 | \$0 |
| Buildings                |       |             |             | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)        |       |             |             | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction |       |             |             | 0.00 | \$0 | \$0 | \$0 |
| Land                     |       |             |             | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System    |       |             |             | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling        |       |             |             | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal     |       |             |             | 0.00 | \$0 | n/a | \$0 |
| Permit Costs             |       |             |             | 0.00 | \$0 | n/a | \$0 |
| Other (as needed)        | \$100 | 14-Jun-2011 | 28-Dec-2011 | 0.54 | \$3 | n/a | \$3 |

**Notes for DELAYED costs**

Estimated cost to renew a delivery certificate by accurately preparing and submitting an updated UST registration and self-certification form. Date Required is the investigation date. Final Date is the 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]    | \$500 | 1-Mar-2006 | 14-Jun-2011 | 6.21 | \$155 | \$500 | \$655 |
| Other (as needed)             |       |            |             | 0.00 | \$0   | \$0   | \$0   |

**Notes for AVOIDED costs**

Estimated avoided cost (\$100 per full year) to accurately prepare and submit an updated UST registration and obtain a delivery certificate. Date Required is 30 days before the expiration date of the delivery certificate. Final Date is the investigation date.

|                                   |       |              |       |
|-----------------------------------|-------|--------------|-------|
| <b>Approx. Cost of Compliance</b> | \$600 | <b>TOTAL</b> | \$658 |
|-----------------------------------|-------|--------------|-------|

Screening Date 28-Nov-2011

Docket No. 2011-2207-PST-E

PCW

Respondent H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C

Policy Revision 2 (September 2002)

Case ID No. 43029

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101545218

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Charlie Lockwood

Violation Number 2

Rule Cite(s) 30 Tex. Admin Code § 334.8(c)(5)(A)(I) and Tex. Water Code § 26.3467(a)

Violation Description

Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          | X     |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event | X |

Violation Base Penalty \$1,000

One single event is recommended for accepting one fuel delivery.

Good Faith Efforts to Comply

10.0% Reduction

\$100

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

Notes

The Respondent came into compliance on December 28, 2011, after the NOE dated November 18, 2011.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$957

This violation Final Assessed Penalty (adjusted for limits) \$957

# Economic Benefit Worksheet

**Respondent** H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C  
**Case ID No.** 43029  
**Req. Ent. Reference No.** RN101545218  
**Media** Petroleum Storage Tank  
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

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

### Delayed Costs

|                          |  |  |  |      |     |     |     |
|--------------------------|--|--|--|------|-----|-----|-----|
| Equipment                |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Buildings                |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)        |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Land                     |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System    |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling        |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal     |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Permit Costs             |  |  |  | 0.00 | \$0 | n/a | \$0 |
| Other (as needed)        |  |  |  | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Economic benefit included in violation no. 1.

### Avoided Costs

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

|                               |  |  |  |      |     |     |     |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal                      |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

Screening Date 28-Nov-2011

Docket No. 2011-2207-PST-E

PCW

Respondent H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C

Policy Revision 2 (September 2002)

Case ID No. 43029

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101545218

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Charlie Lockwood

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (b)(2), and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential | x     |          |       |

Percent 50%

>> Programmatic Matrix

| Falsification | Harm  |          |       |
|---------------|-------|----------|-------|
|               | 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 \$5,000

\$5,000

Violation Events

Number of Violation Events 1

10 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      | x |
| quarterly    |   |
| semiannual   |   |
| annual       |   |
| single event |   |

Violation Base Penalty \$5,000

One monthly event is recommended based on documentation of the violation during the November 18, 2011 record review date to the November 28, 2011 screening date.

Good Faith Efforts to Comply

10.0% Reduction

\$500

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

Notes

The Respondent came into compliance on December 28, 2011, after the NOE dated November 18, 2011.

Violation Subtotal \$4,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$170

Violation Final Penalty Total \$4,787

This violation Final Assessed Penalty (adjusted for limits) \$4,787

## Economic Benefit Worksheet

**Respondent** H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C  
**Case ID No.** 43029  
**Req. Ent. Reference No.** RN101545218  
**Media** Petroleum Storage Tank  
**Violation No.** 3

|                         |                              |
|-------------------------|------------------------------|
| <b>Percent Interest</b> | <b>Years of Depreciation</b> |
| 5.0                     | 15                           |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

### Delayed Costs

|                          |         |             |             |      |      |     |      |
|--------------------------|---------|-------------|-------------|------|------|-----|------|
| Equipment                |         |             |             | 0.00 | \$0  | \$0 | \$0  |
| Buildings                |         |             |             | 0.00 | \$0  | \$0 | \$0  |
| Other (as needed)        |         |             |             | 0.00 | \$0  | \$0 | \$0  |
| Engineering/construction |         |             |             | 0.00 | \$0  | \$0 | \$0  |
| Land                     |         |             |             | 0.00 | \$0  | n/a | \$0  |
| Record Keeping System    |         |             |             | 0.00 | \$0  | n/a | \$0  |
| Training/Sampling        |         |             |             | 0.00 | \$0  | n/a | \$0  |
| Remediation/Disposal     |         |             |             | 0.00 | \$0  | n/a | \$0  |
| Permit Costs             |         |             |             | 0.00 | \$0  | n/a | \$0  |
| Other (as needed)        | \$1,500 | 14-Jun-2011 | 28-Dec-2011 | 0.54 | \$40 | n/a | \$40 |

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases. Date Required is the investigation date. Final Date is the 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]    | \$118 | 14-Jun-2010 | 28-Jun-2011 | 1.96 | \$12 | \$118 | \$130 |
| Other (as needed)             |       |             |             | 0.00 | \$0  | \$0   | \$0   |

Notes for AVOIDED costs

Estimated cost for conducting the annual piping tightness test. Date Required is one year prior to the investigation date. Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,618

**TOTAL**

\$170

# Compliance History

|   |   |                         |                   |
|---|---|-------------------------|-------------------|
| Customer/Respondent/Owner-Operator:           | CN602754012 H & K BEVERAGE CORP.              | Classification: AVERAGE | Rating: 0.60      |
| Regulated Entity:                             | RN101545218 Kwik Stop Beer & Wine C           | Classification: AVERAGE | Site Rating: 0.60 |
| ID Number(s):                                 | PETROLEUM STORAGE TANK REGISTRATION           | REGISTRATION            | 28334             |
| Location:                                     | 205 South Carroll Avenue, Dallas, Texas 75226 |                         |                   |
| TCEQ Region:                                  | REGION 04 - DFW METROPLEX                     |                         |                   |
| Date Compliance History Prepared:             | November 21, 2011                             |                         |                   |
| Agency Decision Requiring Compliance History: | Enforcement                                   |                         |                   |
| Compliance Period:                            | November 21, 2006 to November 21, 2011        |                         |                   |

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

Name: Charlie Lockwood Phone: (512) 239-1653

### 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: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

|   |            |          |
|---|------------|----------|
| 1 | 12/07/2006 | (518171) |
| 2 | 10/31/2007 | (598152) |
| 3 | 08/11/2009 | (763484) |
| 4 | 08/24/2009 | (766690) |
| 5 | 11/18/2011 | (941488) |
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

|              |   |                          |
|--------------|---|--------------------------|
| Date:        | 08/12/2009 (763484)   | CN602754012              |
| Self Report? | NO  | Classification: Moderate |
| Citation:    | 30 TAC Chapter 115, SubChapter C 115.242(3)(L)  |                          |
| Description: | Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including a nozzle, hose, break-away, or any other component that is not approved for use with the certified vapor recovery system in use. |                          |
- 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  
H & K BEVERAGE CORP.  
DBA KWIK STOP BEER & WINE C  
RN101545218**

§  
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§  
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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2011-2207-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 205 South Carroll Avenue in Dallas, Dallas County, Texas (the "Facility").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 23, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty Thousand One Hundred Five Dollars (\$20,105) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Seventy-Four Dollars (\$474) of the administrative penalty and Four Thousand Twenty-One Dollars (\$4,021) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Fifteen Thousand Six Hundred Ten Dollars (\$15,610) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Forty-Six Dollars (\$446) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's 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 the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Submitted a properly completed UST registration and self-certification form and obtained a delivery certificate which became valid on December 28, 2011.
  - b. Implemented a release detection method for all USTs at the Facility on December 28, 2011; and
  - c. Successfully conducted the annual piping tightness test on June 28, 2011.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on June 14, 2011 and a record review conducted on November 18, 2011. Specifically, the delivery certificate expired on March 31, 2006.
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on June 14, 2011 and a record review conducted on November 18, 2011. Specifically, one fuel delivery was accepted without a delivery certificate.
3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on June 14, 2011 and a record review conducted on November 18, 2011.
4. Failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on June 14, 2011 and a record review conducted on November 18, 2011. Specifically, the Respondent did not conduct the annual piping tightness test.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the 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 requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C, Docket No. 2011-2207-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 the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the 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.
6. 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.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C  
DOCKET NO. 2011-2207-PST-E  
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**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Pam Donnell Jr.  
For the Executive Director

6/18/12  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity 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 failure to comply with the Ordering Provisions, if any, 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 submitted;
- 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, any falsification of any compliance documents may result in criminal prosecution.

[Signature]  
Signature

5/7/2012  
Date

KANG LIN  
Name (Printed or typed)  
Authorized Representative of  
H & K BEVERAGE CORP. dba Kwik Stop Beer & Wine C

Operations Manager  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.