

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 43112
B.K. TRADING, INC. d/b/a Speedy Stop 3, Speedy Stop 6, and Speedy Stop 10
RN101794410, RN102372505, and RN101434173
Docket No. 2012-0110-PST-E

Order Type:

Default Shutdown Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

663 Bonham Street (Speedy Stop 3), 3751 Lamar Avenue (Speedy Stop 6), and 2205 Clarksville Street (Speedy Stop 10), Paris, Lamar County

Type of Operation:

three convenience stores with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions:	2012-0126-PST-E; 2011-2237-PST-E
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: August 3, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$28,851

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$28,851

Compliance History Classifications:

Person/CN – Average
Site/RN – Average by Default (All Three Facilities)

Major Source: No (Speedy Stop 3 and 10)
Yes (Speedy Stop 6)

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: June 21, 2010; November 10, 2011 (Speedy Stop 3);
June 17, 2010; December 6, 2011 (Speedy Stop 6);
June 17, 2010; November 9, 2011 (Speedy Stop 10)

Date(s) of NOV(s): N/A

Date(s) of NOE(s): November 8, 2011 (Speedy Stop 3); December 6, 2011 (Speedy Stop 6);
November 9, 2011 (Speedy Stop 10)

B.K. TRADING, INC. d/b/a Speedy Stop 3, Speedy Stop 6, and Speedy Stop 10
RN101794410, RN102372505, and RN101434173
Docket No. 2012-0110-PST-E

Violation Information

Speedy Stop 3:

1. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
2. Failed to provide proper release detection for the pressurized piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].

Speedy Stop 6:

3. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
4. Failed to provide proper corrosion protection for the UST system [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a)].
5. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
6. Failed to provide proper release detection for the pressurized piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].

Speedy Stop 10:

7. 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 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
8. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].
9. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
10. Failed to provide proper release detection for the pressurized piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

1. Began providing release detection for the pressurized piping at Speedy Stop 3 on December 14, 2011 (violation 2);
2. Began demonstrating acceptable financial assurance at Speedy Stop 6 on February 2, 2011 (violation 3);
3. Began providing proper corrosion protection for the UST system at Speedy Stop 6 on April 15, 2010 (violation 4);
4. Began providing release detection for the pressurized piping at Speedy Stop 6 on September 15, 2010 (violation 6); and
5. Began providing release detection for the pressurized piping at Speedy Stop 10 on January 13, 2012 (violation 10).

Technical Requirements:

1. Immediately shut down operations of all USTs at the Facilities:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.
2. At each Facility, the USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection and corrosion protection violations for the corresponding Facility have been corrected.
3. The Facilities' UST fuel delivery certificates are revoked immediately. Respondent may submit applications for new fuel delivery certificates only after Respondent has complied with all of the requirements contained in the Order for each Facility.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at each Facility until such time as a valid delivery certificate is obtained for the corresponding Facility.
5. Within 10 days, Respondent shall surrender the Facilities' UST fuel delivery certificates.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming sales of gasoline at each Facility:
 - a. Install and implement a release detection method for the USTs at the Facility; and
 - b. Obtain a new fuel delivery certificate.
8. Upon obtaining a new fuel delivery certificate at each Facility, post the fuel delivery certificates in a location at the Facility where the delivery certificate is clearly visible at all times.
9. Within 10 days of resuming sales of gasoline at each Facility, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: May 17, 2012
Date Green Card(s) Signed: May 21, 2012
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Phillip M. Goodwin, P.G., Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Brianna Carlson, Enforcement Division, (361) 825-3420

TCEQ Regional Contact: Michael Brashear, Tyler Regional Office, (903) 535-5176

Respondent: Masooda Khwaja, Director, B.K. TRADING, INC., P.O. Box 843, Paris, Texas 75461

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Nov-2011		
	PCW	3-Apr-2012	Screening	30-Nov-2011
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	B. K. TRADING, INC. dba Speedy Stop 3		
Reg. Ent. Ref. No.	RN101794410		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43112	No. of Violations	1
Docket No.	2012-0110-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		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 **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

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: \$293
 Approx. Cost of Compliance: \$1,618
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$2,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **5.2%** **Adjustment** **\$129**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount **\$2,629**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$2,629**

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 **\$2,629**

Screening Date	30-Nov-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 3			Policy Revision 2 (September 2002)
Case ID No.	43112			PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN101794410			
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 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	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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	30-Nov-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 3			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43112			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101794410			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brianna Carlson			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

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

>> **Programmatic Matrix**

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	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

Good Faith Efforts to Comply

0.0% Reduction

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

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent B. K. TRADING, INC. dba Speedy Stop 3
Case ID No. 43112
Req. Ent. Reference No. RN101794410
Media Violation No. 1
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	21-Jun-2010	26-Aug-2012	2.18	\$164	n/a	\$164

Notes for DELAYED costs

Estimated cost to provide a method of release detection for the USTs at the Facility. The date required is the investigation date and 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)	\$118	21-Jun-2009	21-Jun-2010	1.92	\$11	\$118	\$129

Notes for AVOIDED costs

Estimated avoided cost of conducting line leak detector and line tightness tests. The date required is one year before the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$293



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Dec-2011			
	PCW	15-May-2012	Screening	20-Dec-2011	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	B. K. TRADING, INC. dba Speedy Stop 6	
Reg. Ent. Ref. No.	RN102372505	
Facility/Site Region	5-Tyler	Major/Minor Source
		Major

CASE INFORMATION

Enf./Case ID No.	43112	No. of Violations	3
Docket No.	2012-0110-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		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** **\$17,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes No adjustment for compliance history.

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	\$3,476	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$9,598	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$17,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **13.5%** **Adjustment** **\$2,363**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 3.

Final Penalty Amount **\$19,863**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$19,863**

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 **\$19,863**

Screening Date	20-Dec-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 6			Policy Revision 2 (September 2002)
Case ID No.	43112			PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN102372505			
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 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	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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date	20-Dec-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 6			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43112			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102372505			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brianna Carlson			

Violation Number

Rule Cite(s)

30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description

Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks ("USTs").

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

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

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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

Violation Base Penalty

Three single events are recommended for the three USTs at the Facility.

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 checked="" type="text" value="x"/>	(mark with x)

Notes

No good faith reduction in default situation.

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 B. K. TRADING, INC. dba Speedy Stop 6
Case ID No. 43112
Req. Ent. Reference No. RN102372505
Media Violation No. 1
Media 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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$1,980	17-Jun-2009	2-Feb-2011	2.55	\$252	\$1,980	\$2,232

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum USTs (\$660 per tank). The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$1,980

TOTAL

\$2,232

Screening Date	20-Dec-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 6			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43112			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102372505			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brianna Carlson			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code § 334.49(a) and Tex. Water Code § 26.3475(d)			
Violation Description	Failed to provide proper corrosion protection for the UST system.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual			Percent 50%
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 \$5,000

\$5,000

Violation Events

Number of Violation Events: 1 14 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 December 6, 2011 record review to the December 20, 2011 screening date.

Good Faith Efforts to Comply **0.0%** Reduction \$0

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

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$945 Violation Final Penalty Total \$5,675

This violation Final Assessed Penalty (adjusted for limits) \$5,675

Economic Benefit Worksheet

Respondent B. K. TRADING, INC. dba Speedy Stop 6
Case ID No. 43112
Req. Ent. Reference No. RN102372505
Media Violation No. Petroleum Storage Tank
 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	\$6,000	17-Jun-2010	15-Sep-2012	2.25	\$45	\$900	\$945
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install and test the corrosion protection system. The date required is the date of the investigation and 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	\$6,000	TOTAL	\$945
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Screening Date	20-Dec-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 6			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43112			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN102372505			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brianna Carlson			
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 USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide proper release detection for the pressurized piping associated with the UST system. Specifically, the annual pressurized piping tightness and line leak detector tests were not conducted.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 50%
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 \$5,000

\$5,000

Violation Events

Number of Violation Events: 1 14 Number of violation days

<i>mark only one with an x</i>	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 December 6, 2011 record review to the December 20, 2011 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

		Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary			
Ordinary			
N/A	x		(mark with x)
Notes	The Respondent does not meet the good faith criteria for this violation.		

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount: \$299	Violation Final Penalty Total: \$5,675
This violation Final Assessed Penalty (adjusted for limits) \$5,675	

Economic Benefit Worksheet

Respondent B. K. TRADING, INC. dba Speedy Stop 6
Case ID No. 43112
Req. Ent. Reference No. RN102372505
Media Violation No. Petroleum Storage Tank
 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	17-Jun-2010	15-Sep-2012	2.25	\$169	n/a	\$169

Notes for DELAYED costs

Estimated cost to provide a method of release detection for the USTs at the Facility. The date required is the investigation date and 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)	\$118	17-Jun-2009	15-Sep-2010	2.16	\$13	\$118	\$131

Notes for AVOIDED costs

Estimated avoided cost of conducting line leak detector and line tightness tests. The date required is one year before the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$299



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Nov-2011		
	PCW	3-Apr-2012	Screening	30-Nov-2011
			EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	B. K. TRADING, INC. dba Speedy Stop 10		
Reg. Ent. Ref. No.	RN101434173		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43112	No. of Violations	3
Docket No.	2012-0110-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Brianna Carlson
		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** **\$6,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

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: \$535
 Approx. Cost of Compliance: \$1,918
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **6.0%** **Adjustment** **\$359**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 3.

Final Penalty Amount **\$6,359**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,359**

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 **\$6,359**

Screening Date	30-Nov-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 10			Policy Revision 2 (September 2002)
Case ID No.	43112			PCW Revision October 30, 2008
Reg. Ent. Reference No.	RN101434173			
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 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	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)

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

Adjustment Percentage (Subtotal 3)

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

Adjustment Percentage (Subtotal 7)

>> **Compliance History Summary**

Compliance History Notes

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

Screening Date	30-Nov-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 10			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43112			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101434173			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brianna Carlson			

Violation Number

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 September 30, 2009.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> **Programmatic Matrix**

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

Percent

Matrix Notes

100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	weekly	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input checked="" type="text" value="x"/>
	single event	<input type="text"/>

Violation Base Penalty

Three annual events are recommended.

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 checked="" 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 B. K. TRADING, INC. dba Speedy Stop 10
Case ID No. 43112
Req. Ent. Reference No. RN101434173
Media Violation No. 1
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	17-Jun-2010	26-Aug-2012	2.19	\$11	n/a	\$11

Notes for DELAYED costs

Estimated cost to renew the delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is the investigation date and the final date is the estimated compliance date.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$200	30-Sep-2009	9-Nov-2011	3.03	\$30	\$200	\$230

Notes for AVOIDED costs

Estimated avoided cost (\$100 per full year) to accurately prepare and submit an updated UST registration and obtain a valid TCEQ delivery certificate. The date required is the expiration date of the delivery certificate. The final date is the record review date.

Approx. Cost of Compliance

\$300

TOTAL

\$241

Screening Date	30-Nov-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 10			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43112			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101434173			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brianna Carlson			

Violation Number

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, a fuel delivery was accepted without a valid delivery certificate.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>

Percent

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

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

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x

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

Violation Base Penalty

One single event is recommended for accepting one delivery of fuel without a valid delivery certificate.

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 checked="" 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 B. K. TRADING, INC. dba Speedy Stop 10
Case ID No. 43112
Req. Ent. Reference No. RN101434173
Media Violation No. Petroleum Storage Tank
 2

Percent Interest	Years of Depreciation
5.0	15

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

This Economic Benefit is 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

TOTAL

Screening Date	30-Nov-2011	Docket No.	2012-0110-PST-E	PCW
Respondent	B. K. TRADING, INC. dba Speedy Stop 10			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	43112			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101434173			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Brianna Carlson			
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 USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide proper release detection for the pressurized piping associated with the UST system. Specifically, the annual pressurized piping tightness and line leak detector tests were not conducted.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 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 21 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the November 9, 2011 record review to the November 30, 2011 screening date.

Good Faith Efforts to Comply 0.0% Reduction \$0

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

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount \$294	Violation Final Penalty Total \$2,650
This violation Final Assessed Penalty (adjusted for limits) \$2,650	

Economic Benefit Worksheet

Respondent B. K. TRADING, INC. dba Speedy Stop 10
Case ID No. 43112
Req. Ent. Reference No. RN101434173
Media Violation No. Petroleum Storage Tank
 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	17-Jun-2010	26-Aug-2012	2.19	\$165	n/a	\$165

Notes for DELAYED costs

Estimated cost to provide a method of release detection for the USTs at the Facility. The date required is the investigation date and 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)	\$118	17-Jun-2009	17-Jun-2010	1.92	\$11	\$118	\$129

Notes for AVOIDED costs

Estimated avoided cost of conducting line leak detector and line tightness tests. The date required is one year before the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$294

Compliance History

Customer/Respondent/Owner-Operator:	CN602494049	B. K. TRADING, INC.	Classification:	AVERAGE	Rating:	4.54
Regulated Entity:	RN101794410	Speedy Stop 3	Classification:	AVERAGE BY DEFAULT	Site Rating:	3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	46502		
Location:	663 BONHAM ST, PARIS, TX, 75460					
TCEQ Region:	REGION 05 - TYLER					
Date Compliance History Prepared:	November 29, 2011					
Agency Decision Requiring Compliance History:	Enforcement					
Compliance Period:	November 29, 2006 to November 29, 2011					
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:						
Name:	Brianna Carlson		Phone:	956/430-6021		

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 11/10/2011 (912158)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator:	CN602494049	B. K. TRADING, INC.	Classification:	AVERAGE	Rating:	4.54
Regulated Entity:	RN102372505	Speedy Stop 6	Classification:	AVERAGE BY DEFAULT	Site Rating:	3.01
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION		44771	
Location:	3751 LAMAR AVE, PARIS, TX, 75460					
TCEQ Region:	REGION 05 - TYLER					
Date Compliance History Prepared:	January 05, 2012					
Agency Decision Requiring Compliance History:	Enforcement					
Compliance Period:	January 05, 2007 to January 05, 2012					
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:						
Name:	Brianna Carlson		Phone:	956/430-6021		

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 12/06/2011 (912153)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

Compliance History

Customer/Respondent/Owner-Operator: CN602494049 B. K. TRADING, INC. Classification: AVERAGE Rating: 4.54
 Regulated Entity: RN101434173 Speedy Stop 10 Classification: AVERAGE BY DEFAULT Site Rating: 3.01
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 46521
 Location: 2205 CLARKSVILLE ST, PARIS, TX, 75460
 TCEQ Region: REGION 05 - TYLER
 Date Compliance History Prepared: November 29, 2011
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: November 29, 2006 to November 29, 2011
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
 Name: Brianna Carlson Phone: 956/430-6021

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? OWNOPR B. K. TRADING, INC.
4. If **YES**, who was/were the prior owner(s)/operator(s)? OWNOPR AGHA Food Stop, Inc.
5. When did the change(s) in owner or operator occur? 08/01/2007 OWNOPR AGHA Food Stop, Inc.
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 11/09/2011 (912160)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
B.K. TRADING, INC. D/B/A	§	TEXAS COMMISSION ON
SPEEDY STOP 3, SPEEDY STOP 6,	§	
AND SPEEDY STOP 10;	§	
RN101794410, RN102372505,	§	ENVIRONMENTAL QUALITY
AND RN101434173	§	

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2012-0110-PST-E

At its _____ agenda meeting, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the facilities' fuel delivery certificates. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shutdown and remove from service the underground storage tanks ("USTs") located at 663 Bonham Street, in Paris, Lamar County, Texas; 3751 Lamar Avenue in Paris, Lamar County, Texas; and 2205 Clarksville Street in Paris, Lamar County, Texas. The respondent made the subject of this Order is B.K. TRADING, INC. d/b/a Speedy Stop 3, Speedy Stop 6, and Speedy Stop 10 ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), three UST systems and convenience stores with retail sales of gasoline (collectively referred to as the "Facilities"):
 - a. B.K. TRADING, INC. d/b/a Speedy Stop 3, RN101794410, located at 663 Bonham Street in Paris, Lamar County, Texas ("Speedy Stop 3");
 - b. B.K. TRADING, INC. d/b/a Speedy Stop 6, RN102372505, located at 3751 Lamar Avenue in Paris, Lamar County, Texas ("Speedy Stop 6"); and
 - c. B.K. TRADING, INC. d/b/a Speedy Stop 10, RN101434173, located at 2205 Clarksville Street in Paris, Lamar County, Texas ("Speedy Stop 10").
2. The USTs at 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.

3. During an investigation conducted at Speedy Stop 3 on June 21, 2010, and a record review conducted on November 10, 2011, University of Texas at Arlington – Petroleum Storage Tank staff documented that Respondent:
 - a. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and
 - b. Failed to provide proper release detection for the pressurized piping associated with the UST system. Specifically, the annual pressurized piping tightness and line leak detector tests were not conducted.
4. During an investigation conducted at Speedy Stop 6 on June 17, 2010, and a record review conducted on December 6, 2011, University of Texas at Arlington – Petroleum Storage Tank staff documented that Respondent:
 - a. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs;
 - b. Failed to provide proper corrosion protection for the UST system;
 - c. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and
 - d. Failed to provide proper release detection for the pressurized piping associated with the UST system. Specifically, the annual pressurized piping tightness and line leak detector tests were not conducted.
5. During an investigation conducted at Speedy Stop 10 on June 17, 2010, and a record review conducted on November 9, 2011, University of Texas at Arlington – Petroleum Storage Tank staff documented that Respondent:
 - a. 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. Specifically, the delivery certificate expired on September 30, 2009;
 - b. 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, a fuel delivery was accepted without a valid delivery certificate;
 - c. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); and
 - d. Failed to provide proper release detection for the pressurized piping associated with the UST system. Specifically, the annual pressurized piping tightness and line leak detector tests were not conducted.
6. By letters dated November 8, 2011 (Speedy Stop 3), December 6, 2011 (Speedy Stop 6), and November 9, 2011 (Speedy Stop 10), University of Texas at Arlington – Petroleum Storage Tank staff provided Respondent with notice of the violations and of TCEQ's authority to shut down and remove from service any USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations are not corrected.

7. The Executive Director recognizes that Respondent implemented the following corrective measures:
 - a. Began providing release detection for the pressurized piping at Speedy Stop 3 on December 14, 2011 (Finding of Fact No. 3.b.);
 - b. Began demonstrating acceptable financial assurance at Speedy Stop 6 on February 2, 2011 (Finding of Fact No. 4.a.);
 - c. Began providing proper corrosion protection for the UST system at Speedy Stop 6 on April 15, 2010 (Finding of Fact No. 4.b.);
 - d. Began providing release detection for the pressurized piping at Speedy Stop 6 on September 15, 2010 (Finding of Fact No. 4.d.); and
 - e. Began providing release detection for the pressurized piping at Speedy Stop 10 on January 13, 2012 (Finding of Fact No. 5.d.).
8. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of B.K. TRADING, INC. d/b/a Speedy Stop 3, Speedy Stop 6, and Speedy Stop 10" (the "EDPRP") in the TCEQ Chief Clerk's office on May 17, 2012.
9. By letter dated May 17, 2012, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on May 21, 2012, as evidenced by the signature on the card.
10. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.
11. By letter dated July 16, 2012, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facilities to be shut down and removed from service if Respondent failed to correct the release detection violations within 30 days after Respondent's receipt of the notice.
12. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection violations alleged in Findings of Fact Nos. 3.a., 4.c., and 5.c. have been corrected.
13. The USTs at the Facilities do not have release detection as required by TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and may be releasing petroleum products to the environment. Therefore, conditions at the Facilities constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Respondent failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).

3. As evidenced by Finding of Fact No. 3.b., Respondent failed to provide proper release detection for the pressurized piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2).
4. As evidenced by Finding of Fact No. 4.a., Respondent failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
5. As evidenced by Finding of Fact No. 4.b., Respondent failed to provide proper corrosion protection for the UST system, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(a).
6. As evidenced by Finding of Fact No. 4.c., Respondent failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
7. As evidenced by Finding of Fact No. 4.d., Respondent failed to provide proper release detection for the pressurized piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2).
8. As evidenced by Finding of Fact No. 5.a., Respondent 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).
9. As evidenced by Finding of Fact No. 5.b., Respondent 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 TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).
10. As evidenced by Finding of Fact No. 5.c., Respondent failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
11. As evidenced by Finding of Fact No. 5.d., Respondent failed to provide proper release detection for the pressurized piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2).
12. As evidenced by Findings of Fact Nos. 8 and 9, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
13. As evidenced by Finding of Fact No. 10, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
14. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

15. An administrative penalty in the amount of twenty eight thousand eight hundred fifty-one dollars (\$28,851.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
16. As evidenced by Findings of Fact Nos. 6, 11, and 12, Respondent failed to correct documented violations of Commission release detection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facilities.
17. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill protection for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
18. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
19. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facilities' UST fuel delivery certificates if the Commission finds that good cause exists.
20. Good cause for revocation of the Facilities' UST fuel delivery certificates exists as justified by Findings of Fact Nos. 3 through 5 and 8 through 10 and Conclusions of Law Nos. 2 through 13.
21. As evidenced by Findings of Fact Nos. 12 and 13, current conditions at the Facilities constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at each of the Facilities:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The USTs at each of the Facilities shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provisions Nos. 1.a. through 1.e., until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection violations noted in Conclusions of Law Nos. 2, 6, and 10 have been corrected.

3. If Respondent elects to permanently remove from service any portion of the UST systems at the Facilities, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Each of the Facilities' UST fuel delivery certificates are revoked immediately upon the effective date of this Order. Respondent may submit applications for new fuel delivery certificates only after Respondent has complied with all of the requirements set forth in this Order.
5. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at each of the Facilities until such time as valid delivery certificates are obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
6. Within 10 days after the effective date of this Order, Respondent shall send each of the Facilities' UST fuel delivery certificates to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

7. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 5 and 6.
8. Respondent is assessed an administrative penalty in the amount of twenty eight thousand eight hundred fifty-one dollars (\$28,851.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
9. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: B.K. TRADING, INC. d/b/a Speedy Stop 3, Speedy Stop 6, and Speedy Stop 10; Docket No. 2012-0110-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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Install and implement a release detection method for all USTs at each of the Facilities, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - b. Obtain a new fuel delivery certificate for each of the Facilities from the TCEQ.
11. Upon obtaining new fuel delivery certificates, Respondent shall post the fuel delivery certificates in a location at each of the Facilities where the delivery certificates are clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.
13. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, 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 certifications and supporting 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:

Michael Brashear, Waste Section Manager
Texas Commission on Environmental Quality
Tyler Regional Office
2916 Teague Drive
Tyler, Texas 75701-3734

14. All relief not expressly granted in this Order is denied.
15. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facilities operations referenced in this Order.
16. If Respondent fails to comply with any of the Ordering Provisions in this 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 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.

17. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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.
18. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
19. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
20. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date this Order was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF PHILLIP M. GOODWIN

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

"My name is Phillip M. Goodwin. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of B.K. TRADING, INC. d/b/a Speedy Stop 3, Speedy Stop 6, and Speedy Stop 10" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on May 17, 2012.

The EDPRP was mailed to Respondent's last known address on May 17, 2012, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on May 21 2012, as evidenced by the signature on the card.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

By letter dated July 16, 2012, sent via first class mail and certified mail, return receipt requested article no. 7011 0470 0003 6425 5917, I provided Respondent with notice of the TCEQ's Intent to order the USTs at the Facilities be shut down and removed from service if the violations pertaining to release detection were not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent received the notice on July 19, 2012.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the release detection shutdown violations noted during the June 17, 2010 and June 21, 2010 investigations and the November 9, 2011, November 10, 2011, December 6, 2011 record reviews."

Phillip M. Goodwin, P.G., Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, P.G., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 31st day of July, A.D. 2012.

Notary Signature