

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 45535  
Kaur Investments, Inc. d/b/a Baytown Express Travel Center  
RN102223062  
Docket No. 2012-2408-PST-E

**Order Type:**

Default Order

**Media:**

PST

**Small Business:**

Yes

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

1901 Interstate 10 East, Baytown, Harris County

**Type of Operation:**

convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	None
Other:	None
Interested Third-Parties:	None

**Texas Register Publication Date:** June 7, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$8,875

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$8,875

**Compliance History Classifications:**

Person/CN – High  
Site/RN – High

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002 (PCW 1); September 2011 (PCW 2)

**Investigation Information**

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

**Date(s) of Investigation:** July 18, 2012; November 6, 2012

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

**Date(s) of NOE(s):** November 6, 2012

**Violation Information**

1. Failed to provide release detection for the pressurized piping associated with the underground storage tank (“UST”) system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].
2. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(1)(B)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

Respondent conducted the annual piping tightness and line leak detector tests with passing results.

**Technical Requirements:**

1. The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements contained in the Order.
2. Immediately:
  - a. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ; and
  - b. Begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel.
3. Within 10 days, send the Facility's UST fuel delivery certificate to the TCEQ.
4. Within 15 days, submit written certification to demonstrate compliance.
5. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.

**Litigation Information**

**Date Petition(s) Filed:** April 12, 2013

**Date Green Card(s) Signed:** April 15, 2013

**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Ryan Rutledge, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Keith Frank, Enforcement Division, (512) 239-1203

**TCEQ Regional Contact:** Jason Ybarra, Houston Regional Office, (712) 767-3600

**Respondent:** Darinder Singh, President, Kaur Investments, Inc., 17302 Stratford Green Dr., Sugar Land, TX 77478

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	<b>Assigned</b>	12-Nov-2012		
	<b>PCW</b>	19-Mar-2013	<b>Screening</b>	16-Nov-2012
			<b>EPA Due</b>	

**RESPONDENT/FACILITY INFORMATION**

<b>Respondent</b>	Kaur Investments, Inc. dba Baytown Express Travel Center		
<b>Reg. Ent. Ref. No.</b>	RN102223062		
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major

**CASE INFORMATION**

<b>Enf./Case ID No.</b>	45535	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-2408-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>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$5,000
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

<b>Compliance History</b>	-10.0%	Reduction	<b>Subtotals 2, 3, &amp; 7</b>	-\$500
Notes	Reduction for high performer classification.			
<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>
Notes	The Respondent does not meet the culpability criteria.			
<b>Good Faith Effort to Comply Total Adjustments</b>			<b>Subtotal 5</b>	\$0
<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
Total EB Amounts	\$125	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$118			

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$4,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	13.9%	<b>Adjustment</b>	\$625
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture the avoided cost of compliance associated with the violation and to offset the reduction for high performer classification.		
	<b>Final Penalty Amount</b>	\$5,125	

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$5,125
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered for non-expedited settlement.		
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<b>PAYABLE PENALTY</b>	\$5,125
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**Screening Date** 16-Nov-2012 **Docket No.** 2012-2408-PST-E  
**Respondent** Kaur Investments, Inc. dba Baytown Express Travel Center  
**Case ID No.** 45535  
**Reg. Ent. Reference No.** RN102223062  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Keith Frank

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

### 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**

Reduction for high performer classification.

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

<b>Screening Date</b>	16-Nov-2012	<b>Docket No.</b>	2012-2408-PST-E	<b>PCW</b>
<b>Respondent</b>	Kaur Investments, Inc. dba Baytown Express Travel Center			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	45535			<i>PCW Revision October 30, 2008</i>
<b>Reg. Ent. Reference No.</b>	RN102223062			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Keith Frank			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="50%"/>
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"/>	<b>Percent</b> <input type="text" value="0%"/>

**Matrix Notes**

**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" value="x"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

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

**Notes**

**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** Kaur Investments, Inc. dba Baytown Express Travel Center  
**Case ID No.** 45535  
**Reg. Ent. Reference No.** RN102223062  
**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)				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]	\$118	4-Aug-2011	21-Nov-2011	1.22	\$7	\$118	\$125
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for conducting the annual piping and line leak detector testing. Date Required is the date the test was due. Final Date is the date of compliance.

Approx. Cost of Compliance \$118

**TOTAL** \$125



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	12-Nov-2012			
	<b>PCW</b>	19-Mar-2013	<b>Screening</b>	16-Nov-2012	<b>EPA Due</b>

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Kaur Investments, Inc. dba Baytown Express Travel Center				
<b>Reg. Ent. Ref. No.</b>	RN102223062				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	45535	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-2408-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>	Keith Frank
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$3,750**

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

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

<b>Compliance History</b>	-10.0%	Reduction	<b>Subtotals 2, 3, &amp; 7</b>	<b>-\$375</b>
Notes	Reduction for high performer classification.			
<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>
Notes	The Respondent does not meet the culpability criteria.			
<b>Good Faith Effort to Comply Total Adjustments</b>			<b>Subtotal 5</b>	<b>\$0</b>
<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
Total EB Amounts	\$27	*Capped at the Total EB \$ Amount		
Approx. Cost of Compliance	\$500			

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$3,375**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **11.1%** **Adjustment** **\$375**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to offset the reduction for high performer classification.			
			<b>Final Penalty Amount</b>	<b>\$3,750</b>

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$3,750**

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

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

Notes	Deferral not offered for non-expedited settlement.			
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**PAYABLE PENALTY** **\$3,750**

Screening Date 16-Nov-2012

Docket No. 2012-2408-PST-E

PCW

Respondent Kaur Investments, Inc. dba Baytown Express

Case ID No. Travel Center

Reg. Ent. Reference No. 45535

Media [Statute] RN102223062

Enf. Coordinator Petroleum Storage Tank

Keith Frank

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

## Compliance History Worksheet

## &gt;&gt; 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) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) -10%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% -10%

<b>Screening Date</b>	16-Nov-2012	<b>Docket No.</b>	2012-2408-PST-E	<b>PCW</b>
<b>Respondent</b>	Kaur Investments, Inc. dba Baytown Express Travel Center			<i>Policy Revision 3 (September 2011)</i>
<b>Case ID No.</b>	45535			<i>PCW Revision August 3, 2011</i>
<b>Reg. Ent. Reference No.</b>	RN102223062			
<b>Media [Statute]</b>	Petroleum Storage Tank			
<b>Enf. Coordinator</b>	Keith Frank			

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

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

<b>OR</b>	<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0.0%"/>

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="15.0%"/>

**Matrix Notes**

**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**

**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**

**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** Kaur Investments, Inc. dba Baytown Express Travel Center  
**Case ID No.** 45535  
**Reg. Ent. Reference No.** RN102223062  
**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	\$500	18-Jul-2012	9-Aug-2013	1.06	\$27	n/a	\$27
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 maintain UST records. Date Required is the investigation date. 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

\$500

**TOTAL**

\$27

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# Compliance History Report

**PUBLISHED** Compliance History Report for CN602869414, RN102223062, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN602869414, Kaur Investments, Inc. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN102223062, Baytown Express Travel Center **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 8 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 1901 INTERSTATE 10 E BAYTOWN, TX 77521-1301, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

## ID Number(s):

### PETROLEUM STORAGE TANK REGISTRATION

REGISTRATION 4954

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** November 16, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 16, 2007 to November 16, 2012

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Keith Frank

**Phone:** (512) 239-1203

## Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

N/A

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

### D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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  
ENFORCEMENT ACTION  
CONCERNING  
KAUR INVESTMENTS, INC.  
D/B/A BAYTOWN EXPRESS  
TRAVEL CENTER;  
RN102223062**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

### **DOCKET NO. 2012-2408-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 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 facility's fuel delivery certificate. The respondent made the subject of this Order is Kaur Investments, Inc. d/b/a Baytown Express Travel Center ("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), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 1901 Interstate 10 East in Baytown, Harris County, Texas (Facility ID No. 4954) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on July 18, 2012, and a record review conducted on November 6, 2012, a UT Arlington PST Program investigator (TCEQ Contractor) documented that Respondent:
  - a. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, Respondent did not conduct the annual piping and line leak detector testing prior to the due date of August 4, 2011; and
  - b. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.
3. Respondent received notice of the violations on or about November 11, 2012.
4. The Executive Director recognizes that Respondent conducted the annual piping tightness and line leak detector tests with passing results.
5. 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 Kaur Investments, Inc. d/b/a Baytown Express Travel Center" (the "EDPRP") in the TCEQ Chief Clerk's office on April 12, 2013.

6. By letter dated April 12, 2013, sent to Respondent's last known address via certified mail, return receipt requested, 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 April 15, 2013, as evidenced by the signature on the card.
7. 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.

#### **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. 2.a., Respondent failed to provide 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).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(1)(B).
4. As evidenced by Findings of Fact Nos. 5 and 6, 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(b)(1).
5. As evidenced by Finding of Fact No. 7, 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.
6. 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.
7. An administrative penalty in the amount of eight thousand eight hundred seventy-five dollars (\$8,875.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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.
9. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
10. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 5 through 7, and Conclusions of Law Nos. 2 through 5.

### ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of eight thousand eight hundred seventy-five dollars (\$8,875.00) 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.
2. 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: Kaur Investments, Inc. d/b/a Baytown Express Travel Center; Docket No. 2012-2408-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
3. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order.
4. Immediately upon the effective date of this Order, Respondent shall:
  - a. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8; and
  - b. Begin maintaining all UST records and ensure they are made immediately available for inspection upon request by agency personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
6. Within 15 days after the effective date of this Order, Respondent shall submit written certification below to demonstrate compliance with Ordering Provisions Nos. 4 and 5. The certifications 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:

Jason Ybarra, Waste Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

7. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
8. All relief not expressly granted in this Order is denied.
9. 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 Facility operations referenced in this Order.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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 the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV’T CODE § 2001.144.

**S I G N A T U R E   P A G E**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF RYAN RUTLEDGE**

**STATE OF TEXAS**

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**COUNTY OF TRAVIS**

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"My name is Ryan Rutledge. 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 Kaur Investments, Inc. d/b/a Baytown Express Travel Center" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 12, 2013.

The EDPRP was mailed to Respondent's last known address on April 12, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on April 15, 2013, as evidenced by the signature on the card.

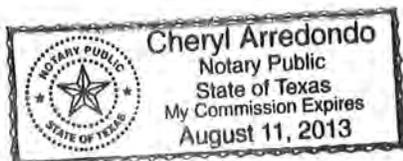
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



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Ryan Rutledge, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Ryan Rutledge, 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 14<sup>th</sup> day of May, A.D. 2013.



Cheryl Arredondo  
Notary Signature