

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44906
AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed
RN101431393
Docket No. 2012-1789-PST-E

Order Type:

Default Shutdown Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

4823 Blanco Road, San Antonio, Bexar 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: May 24, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$12,832

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$12,832

Compliance History Classifications:

Person/CN – Average (All 3 Respondents)
Site/RN – Average By Default

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): September 26, 2011

Complaint Information: The complainant stated that there was a gasoline vapor smell at the facility that had lasted for weeks and was present even when there was no fueling at the facility.

Date(s) of Investigation: March 23, 2012

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

Date(s) of NOE(s): May 22, 2012

Violation Information

1. Failed to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].
2. Failed to ensure that a valid current TCEQ delivery certificate was immediately available, posted, and visible at the Facility [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)].
3. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4) and TEX. WATER CODE § 26.3475(d)].
4. Failed to ensure that a legible tag, label, or marking with tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].
5. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to provide proper release detection for the piping associated with the USTs (the annual pressurized piping test was not conducted); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of inventory control records at least once each month sufficiently accurate to detect a release as small as the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a) and (c)(1)].
6. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately shut down operations of all USTs at the Facility:
 - 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. 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 have been corrected.
3. 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 set forth in the Order.

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4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, Respondent shall surrender the Facility's UST fuel delivery certificate to the TCEQ.
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:
 - a. Begin maintaining all UST records and make them immediately available for inspection upon request;
 - b. Install and implement a release detection method for the UST system at the Facility and begin conducting volume measurement and reconciliation of inventory control records;
 - c. Install and implement a release detection method for the piping associated with the UST system at the Facility including but not limited to conducting annual pressurized piping tightness and line leak detection testing;
 - d. Begin conducting bimonthly inspections of the cathodic protection system for the USTs and conduct the required triennial testing of the cathodic protection system to ensure proper operation;
 - e. Permanently apply or affix tags, labels, or markings to the UST fill tubes with an identification number that matches the number listed on the UST registration and self-certification form; and
 - f. Obtain a new fuel delivery certificate.
8. 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.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: March 28, 2013
Date Green Card(s) Signed: March 30, 2013
Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Enforcement Coordinator: Elvia Maske, Enforcement Division, (512) 239-0789

TCEQ Regional Contact: Cameron Lopez, San Antonio Regional Office, 210-490-309

Respondent: Amir D. Mohammed, President of AZM ENTERPRISES INC., and Director of ZMA ENTERPRISES INC., 4823 Blanco Road, San Antonio, Texas 78217

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	30-May-2012	Screening	5-Jun-2012	EPA Due	
	PCW	22-Mar-2013				

RESPONDENT/FACILITY INFORMATION	
Respondent	AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed
Reg. Ent. Ref. No.	RN101431393
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44906	No. of Violations	6
Docket No.	2012-1789-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Elvia Maske
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,000
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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.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondents do not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$938	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$2,968	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$12,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	6.9%	Adjustment	\$832
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	Recommended enhancement to capture avoided costs associated with violation nos. 3 and 5.
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Final Penalty Amount	\$12,832
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$12,832
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DEFERRAL	0.0% Reduction	Adjustment	\$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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PAYABLE PENALTY	\$12,832
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Screening Date 5-Jun-2012

Docket No. 2012-1789-PST-E

PCW

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC.

Policy Revision 3 (September 2011)

Case ID No. 44906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101431393

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

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

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date 5-Jun-2012

Docket No. 2012-1789-PST-E

PCW

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D.

Policy Revision 3 (September 2011)

Case ID No. 44906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101431393

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description Failed to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition. Specifically, the registration was not updated to reflect that underground storage tank ("UST") no. 3 was taken out of service.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

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

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,337

This violation Final Assessed Penalty (adjusted for limits) \$1,337

Economic Benefit Worksheet

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed
Case ID No. 44906
Reg. Ent. Reference No. RN101431393
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	23-Mar-2012	1-Mar-2013	0.94	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration and self-certification form to change the operational status of the UST system. 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$5

Screening Date 5-Jun-2012

Docket No. 2012-1789-PST-E

PCW

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D.

Policy Revision 3 (September 2011)

Case ID No. 44906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101431393

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(A)

Violation Description Failed to ensure that a valid current TCEQ delivery certificate was immediately available, posted, and visible at the Facility.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (3.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0.0%).

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

Adjustment \$24,250

\$750

Violation Events

Number of Violation Events 1 Number of violation days 1

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

Violation Base Penalty \$750

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$802

This violation Final Assessed Penalty (adjusted for limits) \$802

Economic Benefit Worksheet

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed
Case ID No. 44906
Reg. Ent. Reference No. RN101431393
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	23-Mar-2012	1-Mar-2013	0.94	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to post a valid and current TCEQ UST delivery certificate in a location where the document is clearly visible at all times. 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$2

Screening Date 5-Jun-2012

Docket No. 2012-1789-PST-E

PCW

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D.

Policy Revision 3 (September 2011)

Case ID No. 44906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101431393

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				15.0%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				0.0%

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 this violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 74 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended based on the documentation of the violation during March 23, 2012 investigation to the June 5, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes

The Respondents does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$703

Violation Final Penalty Total \$4,010

This violation Final Assessed Penalty (adjusted for limits) \$4,010

Economic Benefit Worksheet

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed
Case ID No. 44906
Reg. Ent. Reference No. RN101431393
Media Petroleum Storage Tank
Violation No. 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)				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]	\$100	23-Jan-2012	23-Mar-2012	1.08	\$5	\$100	\$105
Other (as needed)	\$500	23-Mar-2009	23-Mar-2012	3.92	\$98	\$500	\$598

Notes for AVOIDED costs

Estimated avoided cost for conducting bimonthly inspections (\$100) and conducting the triennial test (\$500). The dates required are 60 days and three years before the investigation and the final dates are the investigation date.

Approx. Cost of Compliance \$600

TOTAL \$703

Screening Date 5-Jun-2012

Docket No. 2012-1789-PST-E

PCW

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D.

Policy Revision 3 (September 2011)

Case ID No. 44906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101431393

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description Failed to ensure that a legible tag, label, or marking with tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (5.0%).

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 74

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

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

Notes The Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$1,337

This violation Final Assessed Penalty (adjusted for limits) \$1,337

Economic Benefit Worksheet

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed
Case ID No. 44906
Reg. Ent. Reference No. RN101431393
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	23-Mar-2012	1-Mar-2013	0.94	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to label the tank fill port. 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$5

Screening Date 5-Jun-2012

Docket No. 2012-1789-PST-E

PCW

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D.

Policy Revision 3 (September 2011)

Case ID No. 44906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101431393

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Failed to provide proper release detection for the piping associated with the USTs. Specifically, the annual pressurized piping test was not conducted. Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

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 this violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

74 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended based on the documentation of the violation during March 23, 2012 investigation to the June 5, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDPRP/Settlement Offer

\$0

Extraordinary	
Ordinary	
N/A	x (mark with x)

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$200

Violation Final Penalty Total \$4,010

This violation Final Assessed Penalty (adjusted for limits) \$4,010

Economic Benefit Worksheet

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed
Case ID No. 44906
Reg. Ent. Reference No. RN101431393
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	23-Mar-2012	1-Mar-2013	0.94	\$70	n/a	\$70

Notes for DELAYED costs

Estimated cost to provide release detection for the UST system including volume measurement and reconciliation of inventory control records. 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]	\$118	23-Mar-2011	23-Mar-2012	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for conducting annual piping tightness and line leak detector tests. The date required is one year prior to the investigation date and the final date is the investigation date.

Approx. Cost of Compliance

\$1,618

TOTAL

\$200

Screening Date 5-Jun-2012

Docket No. 2012-1789-PST-E

PCW

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D.

Policy Revision 3 (September 2011)

Case ID No. 44906

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101431393

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

Violation Description Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			5.0%

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 74 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

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 Respondents do not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$23 Violation Final Penalty Total \$1,337

This violation Final Assessed Penalty (adjusted for limits) \$1,337

Economic Benefit Worksheet

Respondent AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed
Case ID No. 44906
Reg. Ent. Reference No. RN101431393
Media Petroleum Storage Tank
Violation No. 6

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	23-Mar-2012	1-Mar-2013	0.94	\$23	n/a	\$23
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. 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)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$23

Compliance History Report

Customer/Respondent/Owner-Operator:	CN602866170	AZM ENTERPRISES INC.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101431393	Quik Pik Stop	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK		REGISTRATION	35061
Location:	4823 BLANCO RD, SAN ANTONIO, TX, 78212			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	June 5, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 05, 2007 to June 05, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Elvia Maske	Phone:	(512) 239 - 0789	

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. If **YES**, 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.)
N/A
 - 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 Report

Customer/Respondent/Owner-Operator:	CN604080515	ZMA ENTERPRISES INC.	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101431393	Quik Pik Stop	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK		REGISTRATION	35061
Location:	4823 BLANCO RD, SAN ANTONIO, TX, 78212			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	June 5, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 05, 2007 to June 05, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Elvia Maske	Phone:	(512) 239 - 0789	

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. If **YES**, 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.)
N/A
 - 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 Report

Customer/Respondent/Owner-Operator:	CN604080523	Amir D Mohammed	Classification: AVERAGE	Rating: 3.01
Regulated Entity:	RN101431393	Quik Pik Stop	Classification: AVERAGE BY DEFAULT	Site Rating: 3.01
ID Number(s):	PETROLEUM STORAGE TANK		REGISTRATION	35061
Location:	4823 BLANCO RD, SAN ANTONIO, TX, 78212			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	June 5, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 05, 2007 to June 05, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:				
Name:	Elvia Maske	Phone:	(512) 239 - 0789	

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. If **YES**, 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.)
N/A
 - 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
ENFORCEMENT ACTION
CONCERNING
AZM ENTERPRISES INC.,
ZMA ENTERPRISES INC.,
AND AMIR D. MOHAMMED;
RN101431393**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2012-1789-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 respondents, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondents to shutdown and remove from service the underground storage tanks ("USTs") located at 4823 Blanco Road in San Antonio, Bexar County, Texas. The respondents made the subject of this Order are AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed ("Respondents").

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

FINDINGS OF FACT

1. Respondents own and operate, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), a UST system and a convenience store with retail sales of gasoline located at 4823 Blanco Road in San Antonio, Bexar County, Texas (Facility ID No. 35061) (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 March 23, 2012, a TCEQ San Antonio Regional Office investigator documented that Respondents:
 - a. Failed to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition. Specifically, the registration was not updated to reflect that UST no. 3 was taken out of service;
 - b. Failed to ensure that a valid current TCEQ delivery certificate was immediately available, posted, and visible at the Facility;
 - c. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other components are operating properly, and failed to have the cathodic protection system

- inspected and tested for operability and adequacy of protection at a frequency of at least once every three years;
- d. Failed to ensure that a legible tag, label, or marking with tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form;
 - e. Failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to provide proper release detection for the piping associated with the USTs (the annual pressurized piping test was not conducted); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of inventory control records at least once each month sufficiently accurate to detect a release as small as the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; and
 - f. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.
3. By letter dated May 22, 2012, the TCEQ San Antonio Regional Office provided Respondents with notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection and/or corrosion protection requirements if the violations were not corrected.
 4. 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 AZM ENTERPRISES INC., ZMA ENTERPRISES INC. and Amir D. Mohammed dba Quik Pik Stop" (the "EDPRP") in the TCEQ Chief Clerk's office on March 28, 2013.
 5. By letter dated March 28, 2013, sent to each Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondents with notice of the EDPRP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondents received notice of the EDPRP on March 30, 2013.¹
 6. More than 20 days have elapsed since each Respondent received notice of the EDPRP. Respondents failed to file an answer and failed to request a hearing.
 7. By letter dated May 7, 2013, the Executive Director provided Respondents with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondents failed to correct the release detection and corrosion protection violations within 30 days after Respondent's receipt of the notice.
 8. As of the date of entry of this Order, Respondents have not provided the Executive Director with documentation demonstrating that the release detection and corrosion protection violations alleged in Findings of Fact Nos. 2.c. and 2.e. have been

¹ Amir D. Mohammed is the sole shareholder, President, and Director of AZM ENTERPRISES INC. and ZMA ENTERPRISES INC. Respondents all share the same service address, and Amir D. Mohammed is the agent for service of process for AZM ENTERPRISES INC. and ZMA ENTERPRISES INC.

corrected.

9. The USTs at the Facility do not have release detection and/or corrosion protection as required by TEX. WATER CODE § 26.3475(a), (c)(1) and (d) and 30 TEX. ADMIN. CODE §§ 334.49(c)(2)(C) and (c)(4), and 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I), and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondents are 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., Respondents failed to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
3. As evidenced by Finding of Fact No. 2.b., Respondents failed to ensure that a valid current TCEQ delivery certificate was immediately available, posted, and visible at the Facility, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A).
4. As evidenced by Finding of Fact No. 2.c., Respondents failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4) and TEX. WATER CODE § 26.3475(d).
5. As evidenced by Finding of Fact No. 2.d., Respondents failed to ensure that a legible tag, label, or marking with tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).
6. As evidenced by Finding of Fact No. 2.e., Respondents failed to monitor the USTs for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to provide proper release detection for the piping associated with the USTs (the annual pressurized piping test was not conducted); failed to test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of inventory control records at least once each month sufficiently accurate to detect a release as small as the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a) and (c)(1).
7. As evidenced by Finding of Fact No. 2.f., Respondents 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).
8. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondents with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).

9. As evidenced by Finding of Fact No. 6, Respondents 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 Respondents and assess the penalty recommended by the Executive Director.
10. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents 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.
11. An administrative penalty in the amount of twelve thousand eight hundred thirty-two dollars (\$12,832.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
12. As evidenced by Findings of Fact Nos. 2.c., 2.e., 3, 7, and 8, Respondents failed to correct documented violations of Commission release detection and corrosion protection requirements within 30 days after Respondents received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.
13. 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 or piping, or corrosion protection for tanks or piping.
14. 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.
15. 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.
16. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6, and Conclusions of Law Nos. 2 through 9.
17. As evidenced by Findings of Fact Nos. 8 and 9, current conditions at the Facility 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, Respondents shall take the following steps to shut down operations of all USTs at the Facility:
 - 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 the Facility shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) and as directed by Ordering Provisions Nos. 1.a. through 1.e., until such time as Respondents demonstrate to the satisfaction of the Executive Director that the release detection and corrosion protection violations noted in Conclusions of Law Nos. 4 and 6 have been corrected.
3. If Respondents elect to permanently remove from service any portion of the UST system at the Facility, Respondents 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. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondents may submit an application for a new fuel delivery certificate only after Respondents have complied with all of the requirements set forth in this Order.
5. Immediately upon the effective date of this Order, Respondents shall cease accepting fuel at the Facility 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.
6. Within 10 days after the effective date of this Order, Respondents 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
7. Within 15 days after the effective date of this Order, Respondents 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. Respondents are assessed an administrative penalty in the amount of twelve thousand eight hundred thirty-two dollars (\$12,832.00) 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: AZM ENTERPRISES INC., ZMA ENTERPRISES INC., and Amir D. Mohammed; Docket No. 2012-1789-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, Respondents shall undertake the following technical requirements:
 - a. Begin maintaining all UST records and make them immediately available for inspection upon request, in accordance with 30 TEX. ADMIN. CODE § 334.10;
 - b. Install and implement a release detection method for the UST system at the Facility and begin conducting volume measurement and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - c. Install and implement a release detection method for the piping associated with the UST system at the Facility including but not limited to conducting annual pressurized piping tightness and line leak detection testing, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - d. Begin conducting bimonthly inspections of the cathodic protection system for the USTs and conduct the required triennial testing of the cathodic protection system to ensure proper operation, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - e. Permanently apply or affix tags, labels, or markings to the UST fill tubes with an identification number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8; and
 - f. Obtain a new fuel delivery certificate from the TCEQ by submitting a properly completed UST registration and self-certification form to include the current operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8 to:

Registration and Reporting Section
Permitting & Registration Support Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

11. Upon obtaining a new fuel delivery certificate, Respondents 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).
12. Within 10 days of resuming retail sales of gasoline, Respondents 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."

Respondents 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:

Cameron Lopez, Waste Section Manager
Texas Commission on Environmental Quality
San Antonio Regional Office
14250 Judson Rd.
San Antonio TX 78233-4480

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. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
16. If Respondents fail 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, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within seven days after Respondents become 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 Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive 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 Respondents if the Executive Director determines that Respondents have 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 JENNIFER COOK

STATE OF TEXAS

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COUNTY OF TRAVIS

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"My name is Jennifer Cook. 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 AZM ENTERPRISES INC., ZMA ENTERPRISES INC. and Amir D. Mohammed dba Quik Pik Stop" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on March 28, 2013.

The EDPRP was mailed to each Respondent's last known address on March 28, 2013, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondents received notice of the EDPRP on March 30, 2013.

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

By letter dated May 7, 2013, sent via first class mail and certified mail, return receipt requested article no. 7004 1350 0002 7544 4534, I provided Respondents with notice of the TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the violations pertaining to release detection and corrosion protection were not corrected within 30 days of Respondents' receipt of the letter. According to the return receipt "green card," Respondents received the notice on May 9, 2013.

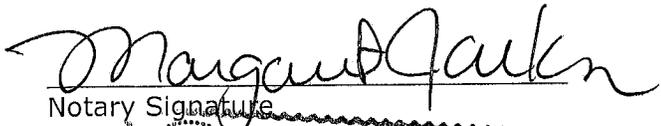
As of the date of this affidavit, I am not aware of any evidence that indicates that Respondents have corrected the release detection and corrosion protection violations noted during the March 23, 2012, investigation."



Jennifer Cook, Special Counsel
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jennifer Cook, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 16 day of July A.D. 2013.



Notary Signature

