

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 44047  
HAKRO INVESTMENTS LLC d/b/a Flip In Market  
RN101539963  
Docket No. 2012-0887-PST-E

**Order Type:**

Agreed Order

**Media:**

PST

**Small Business:**

Yes

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

5860 South Dick Price Road, Kennedale, Tarrant 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:** July 5, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$13,876

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

**Total Paid to General Revenue:** \$401

**Total Due to General Revenue:** \$13,475

Payment Plan: 35 payments of \$385 each

**SEP Conditional Offset:** N/A

**Compliance History Classifications:**

Person/CN – Unsatisfactory  
Site/RN – Unsatisfactory

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2011

**Investigation Information**

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

**Date(s) of Investigation:** February 7, 2012

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

**Date(s) of NOE(s):** April 18, 2012

**Violation Information**

1. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to provide release detection for the piping associated with the USTs (the annual piping tightness test was not conducted); failed to test the line leak detectors at least once per year for performance and operational reliability; and failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii)].
2. Failed to provide corrosion protection to all underground metal components of a UST system which is designed or used to convey, contain, or store regulated substances [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(b)(2)].
3. Failed to verify proper operation of the Stage II vapor recovery system at least once every 12 months [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. Submitted documentation to TCEQ on May 3, 2012, that tank and piping release detection had been implemented at the Facility, that an annual piping tightness test had been completed, that an annual test of the line leak detector was conducted, and that procedures had been put into place at the Facility to ensure that detailed inventory control records were completed on a monthly basis;
2. Submitted documentation to TCEQ on August 5, 2012, showing that corrosion protection for submersible sump pumps at the Facility had been implemented; and
3. Submitted documentation to TCEQ on March 27, 2012, showing that annual testing of the Stage II equipment at the Facility had been conducted.

**Technical Requirements:**

N/A

**Litigation Information**

**Date Petition(s) Filed:** August 20, 2012; November 27, 2012; April 30, 2013

**Date Answer(s) Filed:** October 22, 2012; December 18, 2012

**SOAH Referral Date:** November 27, 2012

**Hearing Date(s):**

Preliminary hearing: January 24, 2013

Evidentiary hearing: May 30, 2013 (reset for June 7, 2013)

**Settlement Date:** May 31, 2013

**Contact Information**

**TCEQ Attorneys:** Steven M. Fishburn, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Amy Swanholm, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Michael Pace, Enforcement Division, (817) 588-5933

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

**Respondent:** Nurudin Ismail, President, HAKRO INVESTMENTS LLC, 5860 South Dick Price Road, Fort Worth, Texas 76140

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

<b>TCEQ</b> <b>DATES</b>	<b>Assigned</b>	19-Apr-2012	<b>Screening</b>	20-Apr-2012	<b>EPA Due</b>	
	<b>PCW</b>	24-May-2013				

<b>RESPONDENT/FACILITY INFORMATION</b>			
<b>Respondent</b>	HAKRO INVESTMENTS LLC dba Flip In Market		
<b>Reg. Ent. Ref. No.</b>	RN101539963		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	44047	<b>No. of Violations</b>	3
<b>Docket No.</b>	2012-0887-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>	Mike Pace
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$11,250
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
<b>Compliance History</b>	35.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$3,937

Notes: Enhancement for one agreed final enforcement order without a denial of liability and unsatisfactory performer classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,874
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$755  
 Approx. Cost of Compliance: \$3,525  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$13,313
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	4.2%	<b>Adjustment</b>	\$563
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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 violation nos. 1 and 3.

<b>Final Penalty Amount</b>	\$13,876
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$13,876
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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.

<b>PAYABLE PENALTY</b>	\$13,876
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**Screening Date** 20-Apr-2012

**Docket No.** 2012-0887-PST-E

**PCW**

**Respondent** HAKRO INVESTMENTS LLC dba Flip In Market

*Policy Revision 3 (September 2011)*

**Case ID No.** 44047

*PCW Revision August 3, 2011*

**Reg. Ent. Reference No.** RN101539963

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Mike Pace

### 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	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 25%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Unsatisfactory Performer

**Adjustment Percentage (Subtotal 7)** 10%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one agreed final enforcement order without a denial of liability and unsatisfactory performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 35%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 35%

**Screening Date** 20-Apr-2012 **Docket No.** 2012-0887-PST-E **PCW**  
**Respondent** HAKRO INVESTMENTS LLC dba Flip In Market *Policy Revision 3 (September 2011)*  
**Case ID No.** 44047 *PCW Revision August 3, 2011*  
**Reg. Ent. Reference No.** RN101539963  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Mike Pace

**Violation Number** 1  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(a) and (c)(1)  
**Violation Description** Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to provide release detection for the piping associated with the USTs. Specifically, the annual piping tightness test was not conducted. Failed to test the line leak detectors at least once per year for performance and operational reliability. Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons.

**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	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 the violation.

**Adjustment** \$21,250

\$3,750

Violation Events

Number of Violation Events 1 68 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 documentation of the violation during the February 7, 2012 investigation to the April 15, 2012 compliance date.

**Good Faith Efforts to Comply** 25.0% Reduction \$937

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

**Notes** The Respondent came into compliance on April 15, 2012, prior to the Notice of Enforcement ("NOE") dated April 18, 2012.

**Violation Subtotal** \$2,813

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount \$151 Violation Final Penalty Total \$4,300

**This violation Final Assessed Penalty (adjusted for limits)** \$4,300

# Economic Benefit Worksheet

**Respondent** HAKRO INVESTMENTS LLC dba Flip In Market  
**Case ID No.** 44047  
**Reg. Ent. Reference No.** RN101539963  
**Media Violation No.** 1  
**Media Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	7-Feb-2012	15-Apr-2012	0.19	\$14	n/a	\$14

Notes for DELAYED costs

Estimated cost of monitoring the USTs for releases including reconciliation of inventory control records.  
 The date required is the investigation date and the final date is the compliance date.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]	\$125	7-Feb-2011	22-Feb-2012	1.96	\$12	\$125	\$137
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for conducting the annual piping tightness and line leak detector tests per receipt.  
 The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance

\$1,625

**TOTAL**

\$151

Screening Date 20-Apr-2012

Docket No. 2012-0887-PST-E

PCW

Respondent HAKRO INVESTMENTS LLC dba Flip In Market

Policy Revision 3 (September 2011)

Case ID No. 44047

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101539963

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.49(b)(2) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to provide corrosion protection to all underground metal components of a UST system which is designed or used to convey, contain, or store regulated substances. Specifically, the submersible sump pumps contained soil and water and were not protected from corrosion.

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 and environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

73 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 documentation of the violation during the February 7, 2012 investigation to the April 20, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$179

Violation Final Penalty Total \$5,277

This violation Final Assessed Penalty (adjusted for limits) \$5,277

# Economic Benefit Worksheet

**Respondent** HAKRO INVESTMENTS LLC dba Flip In Market  
**Case ID No.** 44047  
**Reg. Ent. Reference No.** RN101539963  
**Media Violation No.** 2  
**Media** Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$1,500	7-Feb-2012	20-Oct-2013	1.70	\$9	\$170	\$179
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**   Estimated cost to remove the soil and water from the sumps and test the corrosion protection system. The date required is the investigation date and the final date is the estimated compliance date.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**   \$1,500   **TOTAL**   \$179

Screening Date 20-Apr-2012

Docket No. 2012-0887-PST-E

PCW

Respondent HAKRO INVESTMENTS LLC dba Flip In Market

Policy Revision 3 (September 2011)

Case ID No. 44047

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101539963

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Mike Pace

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II vapor recovery system at least once every 12 months. Specifically, the Respondent did not conduct the annual testing of the Stage II equipment by the due date of November 17, 2011.

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 the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

82 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$3,750

One annual event is recommended for the period preceding the February 7, 2012 investigation.

Good Faith Efforts to Comply

25.0% Reduction

\$937

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

Notes

The Respondent came into compliance on March 27, 2012, prior to the NOE dated April 18, 2012.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$426

Violation Final Penalty Total \$4,300

This violation Final Assessed Penalty (adjusted for limits) \$4,300

# Economic Benefit Worksheet

**Respondent** HAKRO INVESTMENTS LLC dba Flip In Market  
**Case ID No.** 44047  
**Reg. Ent. Reference No.** RN101539963  
**Media Violation No.** Petroleum Storage Tank  
 3

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

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

Notes for DELAYED costs

### 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]	\$400	17-Nov-2011	27-Mar-2012	1.28	\$26	\$400	\$426
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Actual avoided cost for conducting the annual testing of the Stage II equipment per receipt. The date required is test due date and the final date is the compliance date.

Approx. Cost of Compliance \$400

**TOTAL** \$426

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 CN603721184, RN101539963, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN603721184, Hakro Investments LLC **Classification:** UNSATISFACTORY **Rating:** 76.00

**Regulated Entity:** RN101539963, Flip In Market **Classification:** UNSATISFACTORY **Rating:** 76.00

**Complexity Points:** 4 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 5860 S DICK PRICE RD KENNEDALE, TX 76060, TARRANT COUNTY

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):** **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 11356

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

**Date Compliance History Report Prepared:** May 24, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** May 24, 2008 to May 24, 2013

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

**Name:** Mike Pace

**Phone:** (817) 588-5933

## 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? YES
- 3) If YES for #2, who is the current owner/operator? RAHEEL LLC  
Hakro Investments LLC
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? Inara Convenience Inc.
- 5) If YES, when did the change(s) in owner or operator occur? 8/1/2010

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

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

- 1 **Effective Date:** 04/11/2010 **ADMINORDER** 2008-0094-PST-E (**Findings Order-Agreed Order Without Denial**)
  - Classification:** Minor
  - Citation:** 30 TAC Chapter 115, SubChapter C 115.246(7)(A)  
5C THSC Chapter 382 382.085(b)
  - Description:** Failed to maintain Stage II records on-site at the Station during ordinarily manned business hours and make them immediately available for review by agency personnel.
  - Classification:** Minor
  - Citation:** 30 TAC Chapter 115, SubChapter C 115.242(9)  
5C THSC Chapter 382 382.085(b)
  - Description:** Failed to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II vapor recovery system.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 115, SubChapter C 115.242(3)(A)  
5C THSC Chapter 382 382.085(b)
  - Description:** Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board (CARB) Executive Order, and free of defects that would impair the effectiveness of the system.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 115, SubChapter C 115.222(3)  
5C THSC Chapter 382 382.085(b)
  - Description:** Failed to comply with emission control requirements by failing to keep the Stage I vapor recovery system vapor-tight.
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 334, SubChapter C 334.49(a)(4)
  - Description:** Failed to provide corrosion protection to all underground metal components of a UST system used to convey or contain regulated substances.
  - Classification:** Moderate
  - Citation:** 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
  - Description:** Failed to ensure that all tanks at the Station are monitored for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).
  - Classification:** Moderate
  - Citation:** 30 TAC Chapter 334, SubChapter C 334.48(c)
  - Description:** Failed to conduct inventory control each operating day for all USTs involved in the retail sale of petroleum substances used as a motor fuel.
  - Classification:** Minor
  - Citation:** 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
  - Description:** Failed to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition.

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that all USTs are properly identified as listed on the Station's UST registration & self-certification form by a legible tag, label, or marking that is permanently applied on or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube.

**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

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
HAKRO INVESTMENTS LLC  
DBA FLIP IN MARKET;  
RN101539963**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2012-0887-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties (the "Agreed Order"), resolving an enforcement action regarding HAKRO INVESTMENTS LLC d/b/a Flip In Market ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Valerie Norris of The Gibson Law Group, together stipulate that:

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 5860 South Dick Price Road in Kennedale, Tarrant County, Texas (the "Station"). The USTs at the Station 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. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and TCEQ rules.
3. The Executive Director and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of thirteen thousand eight hundred seventy-six dollars (\$13,876.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid four hundred one dollars (\$401.00) of the administrative penalty. The remaining amount of thirteen thousand four hundred seventy-five (\$13,475.00) of the administrative penalty shall be payable in thirty-five (35) monthly payments of three hundred eighty-five dollars (\$385.00) each. The first monthly payment shall be paid within 30 days after the effective date

- of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of
6. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
  7. The Executive Director and Respondent agree on a settlement of the matters addressed in this Agreed Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
  8. The Executive Director recognizes that Respondent implemented the following corrective measures at the Station:
    - a. Submitted documentation to TCEQ on May 3, 2012, that tank and piping release detection had been implemented at the Facility, that an annual piping tightness test had been completed, that an annual test of the line leak detector was conducted, and that procedures had been put into place at the Facility to ensure that detailed inventory control records were completed on a monthly basis;
    - b. Submitted documentation to TCEQ on August 5, 2012, showing that corrosion protection for submersible sump pumps at the Facility had been implemented; and
    - c. Submitted documentation to TCEQ on March 27, 2012, showing that annual testing of the Stage II equipment at the Facility had been conducted.
  9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions contained in this Agreed Order.
  10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  11. The provisions of this Agreed Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

1. During an investigation conducted on February 7, 2012, a TCEQ Dallas/Ft. Worth Regional Office investigator documented that Respondent:
  - a. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); failed to provide release detection for the piping associated with the USTs (the annual piping tightness test was not conducted); failed to test the line leak detectors at least once per year for performance and operational reliability; and failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2), (b)(2)(A)(i)(III), and (d)(1)(B)(ii);
  - b. Failed to provide corrosion protection to all underground metal components of a UST system which is designed or used to convey, contain, or store regulated substances, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(b)(2). Specifically, the submersible sump pumps contained soil and water and were not protected from corrosion; and
  - c. Failed to verify proper operation of the Stage II vapor recovery system at least once every 12 months, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(2). Specifically, Respondent did not conduct the annual testing of the Stage II equipment by the due date of November 17, 2011.
2. Respondent received notice of the violations on or about April 23, 2012.

## III. DENIALS

Respondent generally denies each Allegation in Section II.

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 5, above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective actions or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: HAKRO INVESTMENTS LLC d/b/a Flip In Market, Docket No. 2012-0887-PST-E" to:

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

2. All relief not expressly granted in this Agreed Order is denied.
3. The duties and provisions imposed by this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission" "owner" "person" "writing" and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand delivery of this Agreed Order to Respondent, or three days after the date on which the Commission mails a copy of the fully executed Agreed Order to Respondent, whichever is earlier.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

23707069

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

*C. Sweeney*  
For the Executive Director

*August 23, 2013*  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of HAKRO INVESTMENTS LLC d/b/a Flip In Market, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions in this order and/or failure to timely pay the penalty amount may result in:

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

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

*Nurudin Ismail*  
Signature - Nurudin Ismail, President  
HAKRO INVESTMENTS LLC

*5/31/2013*  
Date