

**Executive Summary – Enforcement Matter – Case No. 50431**  
**NEW K & T QUICK STOP, INC. dba K & H FOOD STORE**  
**RN101570570**  
**Docket No. 2015-0627-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

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

K & H FOOD STORE, 809 West Northside Drive, Fort Worth, Tarrant County

**Type of Operation:**

Convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: N/A

**Texas Register Publication Date:** August 28, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$7,886

**Amount Deferred for Expedited Settlement:** \$1,577

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

**Total Paid to General Revenue:** \$184

**Total Due to General Revenue:** \$6,125

Payment Plan: 35 payments of \$175 each

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major or Minor Source:** Minor

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** March 16, 2015

**Date(s) of NOE(s):** April 7, 2015

**Executive Summary – Enforcement Matter – Case No. 50431**  
**NEW K & T QUICK STOP, INC. dba K & H FOOD STORE**  
**RN101570570**  
**Docket No. 2015-0627-PST-E**

***Violation Information***

1. Failed to verify proper operation of the Stage II equipment at least once every 12 months, and vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted [30 TEX. ADMIN. CODE § 115.245(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. 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 Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the gasket was missing from the Vapor Recovery Adaptor Cap [30 TEX. ADMIN. CODE § 115.242(d)(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. 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) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)].
4. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the annual line leak detector and piping tightness test had not been conducted [30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. Replaced the gasket for the Vapor Recovery Adaptor Cap of the Stage II vapor recovery system on March 17, 2015;
- b. Decommissioned the Stage II vapor recovery system on May 26, 2015; and
- c. Conducted the annual line leak detector and piping tightness tests with passing results on May 26, 2015.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, implement a release detection method for all USTs at the Station; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

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***Litigation Information***

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

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** James Baldwin, Enforcement Division,  
Enforcement Team 7, MC 128, (512) 239-1337; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Mohammad Yousuf, President, NEW K & T QUICK STOP, INC., 809  
West Northside Drive, Fort Worth, Texas 76164  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	13-Apr-2015	<b>Screening</b>	24-Apr-2015	<b>EPA Due</b>	
	<b>PCW</b>	1-May-2015				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	NEW K & T QUICK STOP, INC. dba K & H FOOD STORE
<b>Reg. Ent. Ref. No.</b>	RN101570570
<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>	50431	<b>No. of Violations</b>	3
<b>Docket No.</b>	2015-0627-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>	James Baldwin
		<b>EC's Team</b>	Enforcement Team 7
<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>	\$6,250
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	20.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,250
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Notes: Enhancement for one agreed order with denial of liability.

<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>	-\$312
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$759
Estimated Cost of Compliance	\$2,129

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,188
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	9.7%	<b>Adjustment</b>	\$698
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

<b>Final Penalty Amount</b>	\$7,886
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,886
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$1,577
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$6,309
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Screening Date 24-Apr-2015

Docket No. 2015-0627-PST-E

PCW

Respondent NEW K & T QUICK STOP, INC. dba K & H FOOD STORE

Policy Revision 4 (April 2014)

Case ID No. 50431

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101570570

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

### 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> )	1	20%
	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 judgments 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)** 20%

>> Repeat Violator (Subtotal 3)

No

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

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one agreed order with denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 20%

>> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 20%

Screening Date 24-Apr-2015

Docket No. 2015-0627-PST-E

PCW

Respondent NEW K & T QUICK STOP, INC. dba K & H FOOD STORE

Policy Revision 4 (April 2014)

Case ID No. 50431

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101570570

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 115.245(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to verify proper operation of the Stage II equipment at least once every 12 months, and vapor space manifold and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first. Specifically, the Stage II annual and triennial compliance testing had not been conducted.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

678 Number of violation days

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 for the period preceding the March 16, 2015 investigation.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$569

Violation Final Penalty Total \$1,646

This violation Final Assessed Penalty (adjusted for limits) \$1,646

## Economic Benefit Worksheet

**Respondent** NEW K & T QUICK STOP, INC. dba K & H FOOD STORE  
**Case ID No.** 50431  
**Reg. Ent. Reference No.** RN101570570  
**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)				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]	\$500	17-May-2013	16-Mar-2015	2.75	\$69	\$500	\$569
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for testing the Stage II equipment. The date required is the date the Stage II testing was due and the final date is the investigation date.

Appro... Cost of Compliance

\$500

**TOTAL**

\$569

Screening Date 24-Apr-2015

Docket No. 2015-0627-PST-E

PCW

Respondent NEW K & T QUICK STOP, INC. dba K & H FOOD STORE

Policy Revision 4 (April 2014)

Case ID No. 50431

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101570570

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 115.242(d)(3)(A) and Tex. Health & Safety Code § 382.085(b)

Violation 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 Executive Order, and free of defects that would impair the effectiveness of the system. Specifically, the gasket was missing from the Vapor Recovery Adaptor Cap.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	5.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,250

One quarterly event is recommended from the March 16, 2015 investigation date to the March 17, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$312

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

Notes The Respondent came into compliance on March 17, 2015 prior to the Notice of Enforcement dated April 7, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,303

This violation Final Assessed Penalty (adjusted for limits) \$1,303

# Economic Benefit Worksheet

**Respondent** NEW K & T QUICK STOP, INC. dba K & H FOOD STORE

**Case ID No.** 50431

**Reg. Ent. Reference No.** RN101570570

**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
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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)	\$11	16-Mar-2015	17-Mar-2015	0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Actual cost to replace the Vapor Recovery Adaptor Cap gasket as per receipt. 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)**

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**

\$11

**TOTAL**

\$0

Screening Date 24-Apr-2015

Docket No. 2015-0627-PST-E

PCW

Respondent NEW K & T QUICK STOP, INC. dba K & H FOOD STORE

Policy Revision 4 (April 2014)

Case ID No. 50431

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101570570

Media [Statute] Petroleum Storage Tank

Enf. Coordinator James Baldwin

Violation Number 3

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

Violation Description

Failed to monitor the underground storage tanks ("USTs") for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the annual line leak detector and piping tightness test had not been conducted.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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 that 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 Number of violation days 39

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 from the March 16, 2015 investigation to the April 24, 2015 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/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 \$191

Violation Final Penalty Total \$4,937

This violation Final Assessed Penalty (adjusted for limits) \$4,937

## Economic Benefit Worksheet

**Respondent** NEW K & T QUICK STOP, INC. dba K & H FOOD STORE  
**Case ID No.** 50431  
**Reg. Ent. Reference No.** RN101570570  
**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)	\$1,500	16-Mar-2015	8-Jan-2016	0.82	\$61	n/a	\$61

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases. The date required is the investigation date and the final date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$118	16-Mar-2014	16-Mar-2015	1.92	\$11	\$118	\$129

Notes for AVOIDED costs

Estimated avoided cost to conduct the 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

\$191

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



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN603364431, RN101570570, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603364431, NEW K & T QUICK STOP, INC. **Classification:** SATISFACTORY **Rating:** 38.13

**Regulated Entity:** RN101570570, K&H FOOD STORE **Classification:** SATISFACTORY **Rating:** 38.13

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

**CH Group:** 01 - Gas Stations with convenience Stores and other Gas Stations

**Location:** 809 West Northside Drive, Fort Worth, Tarrant County, Texas

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

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 65698

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** April 23, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 23, 2010 to April 23, 2015

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

**Name:** James Baldwin

**Phone:** (512) 239-1337

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

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

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

1 Effective Date: 10/21/2013 ADMINORDER 2013-0566-PST-E (1660 Order-Agreed Order With Denial)

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 monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE §334.50(b)(1)(A) and TEX. WATER CODE §26.3475(c)(1), as documented during an investigation conducted on September 19, 2012 and a record review conducted on March 13, 2013.

**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



6. An administrative penalty in the amount of Seven Thousand Eight Hundred Eighty-Six Dollars (\$7,886) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Eighty-Four Dollars (\$184) of the administrative penalty and One Thousand Five Hundred Seventy-Seven Dollars (\$1,577) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all the requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Six Thousand One Hundred Twenty-Five Dollars (\$6,125) of the administrative penalty shall be payable in 35 monthly installments of One Hundred Seventy-Five Dollars (\$175) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable upon without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
  - a. Replaced the gasket for the Vapor Recovery Adaptor Cap of the Stage II vapor recovery system on March 17, 2015;
  - b. Decommissioned the Stage II vapor recovery system on May 26, 2015; and
  - c. Conducted the annual line leak detector and piping tightness tests with passing results on May 26, 2015.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

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

## II. ALLEGATIONS

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

1. Failed to verify proper operation of the Stage II equipment at least once every 12 months, and vapor space manifolding and dynamic back pressure at least once every 36 months or upon major system replacement or modification, whichever occurs first, in violation of 30 TEX. ADMIN. CODE § 115.245(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 16, 2015. Specifically, the Stage II annual and triennial compliance testing had not been conducted.
2. 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 Executive Order, and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(d)(3)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on March 16, 2015. Specifically, the gasket was missing from the Vapor Recovery Adaptor Cap.
3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on March 16, 2015.
4. Failed to provide release detection for the pressurized piping associated with the UST system, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on March 16, 2015. Specifically, the annual line leak detector and piping tightness test had not been conducted.

## III. DENIALS

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

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: NEW K & T QUICK STOP, INC. dba K & H FOOD STORE, Docket No. 2015-0627-PST-E" to:

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

2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days of the effective date of this Agreed Order, Respondent shall implement a release detection method for all USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
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. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

  
For the Executive Director

11/3/15  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

  
Signature

7-7-2015  
Date

Mohammad Yousof  
Name (Printed or typed)  
Authorized Representative of  
NEW K & T QUICK STOP, INC. dba K & H FOOD STORE

President  
Title

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