

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 49831  
Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks  
RN102398427  
Docket No. 2015-1395-MLM-E

**Order Type:**

Agreed Order

**Media:**

PST

**Small Business:**

Yes

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

2525 Southmore Avenue, Pasadena, Harris County

**Type of Operation:**

inactive underground storage tank ("UST") system

**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:** February 12, 2016

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$8,750

**Total Paid to General Revenue:** \$350

**Total Due to General Revenue:** \$8,400

Payment Plan: 35 payments of \$240 each

**Compliance History Classifications:**

Person/CN – High (Samana); Unclassified (KJ HOLDINGS and Wilbanks)

Site/RN – High (Samana); Unclassified (KJ HOLDINGS and Wilbanks)

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

**Investigation Information**

**Complaint Date(s):** March 28, 2014  
**Complaint Information:** Complainant stated that facility is closed and tanks not in use and requested status of the tank system.

**Date(s) of Investigation:** April 7, 2014; October 13, 2014

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

**Date(s) of NOE(s):** November 20, 2014

**Violation Information**

1. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.54(e)(2)].
2. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. As of December 10, 2015:
  - a. Permanently removed the UST system from service; and
  - b. Submitted an amended registration updating the current owner and operator information and reflecting the operational status of the UST system as permanently removed from service.

**Technical Requirements:**

None

**Litigation Information**

**Date Petition(s) Filed:** October 20, 2015

**Date Answer Filed:** October 23, 2015

**SOAH Referral Date:** December 1, 2015

**Hearing Date(s):**  
**Preliminary hearing:** January 21, 2016 (scheduled)

**Settlement Date:** January 18, 2016

**Contact Information**

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

**TCEQ Enforcement Coordinator:** Rebecca Boyett, Enforcement Division, (512) 239-2503

**TCEQ Regional Contact:** Jason Ybarra, Houston Regional Office, (713) 767-3500

**Respondent Contacts:** Jawaid W. Samana, 7519 Talbot Court, Sugar Land, Texas 77496;  
Jawaid W. Samana, President, KJ HOLDINGS, INC., 22614 Aldine Westfield Road, Spring, Texas 77373;  
H. Erwin Wilbanks, One Riverway, Suite 1700, Houston, Texas 77056

**Respondent's Attorney:** Erwin Wilbanks, WILBANKS & WILBANKS, PC, One Riverway, Suite 1700, Houston, Texas 77056



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

<b>DATES</b>	<b>Assigned</b>	24-Nov-2014		
	<b>PCW</b>	4-Nov-2015	<b>Screening</b>	1-Dec-2014
			<b>EPA Due</b>	

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks
<b>Reg. Ent. Ref. No.</b>	RN102398427
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	49831	<b>No. of Violations</b>	2
<b>Docket No.</b>	2015-1395-MLM-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>	Rebecca Boyett
		<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>	\$8,750
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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>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$0
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Notes: No adjustment for compliance history.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts: \$3,040  
 Estimated Cost of Compliance: \$28,100  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$8,750
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$8,750
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$8,750
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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 indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$8,750
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Screening Date 1-Dec-2014

Docket No. 2015-1395-MLM-E

PCW

Respondent Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks

Policy Revision 4 (April 2014)

Case ID No. 49831

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102398427

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

### 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 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)** 0%

#### >> Repeat Violator (Subtotal 3)

No

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

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

Unclassified

**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** 1-Dec-2014 **Docket No.** 2015-1395-MLM-E **PCW**  
**Respondent** Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks *Policy Revision 4 (April 2014)*  
**Case ID No.** 49831 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN102398427  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Rebecca Boyett

**Violation Number**

**Rule Cite(s)**

30 Tex. Admin. Code §§ 334.7(d)(3) and 334.54(e)(2)

**Violation Description**

Failed to notify the agency of any change or additional information regarding the underground storage tank ("UST") system within 30 days of the date of the occurrence of the change or addition. Specifically the registration had not been updated to reflect the current owner and operator, and the current operational status of the USTs.

**Base Penalty**

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

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

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5.0%"/>

Matrix Notes

100% of the rule requirement was not met.

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

*mark only one with an x*

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

**Violation Base Penalty**

One single event is recommended.

**Good Faith Efforts to Comply**  Reduction

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

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

**Violation Subtotal**

**Economic Benefit (EB) for this violation** **Statutory Limit Test**

Estimated EB Amount  Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

# Economic Benefit Worksheet

**Respondent** Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks  
**Case ID No.** 49831  
**Reg. Ent. Reference No.** RN102398427  
**Media Violation No.** 1  
**Media Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	18-Jun-2011	1-Jun-2016	4.96	\$25	n/a	\$25

**Notes for DELAYED costs**  
 Estimated delayed cost to submit a properly completed UST registration and self-certification form. The Date Required is the date the UST registration and self-certification form was due. 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** \$25

Screening Date 1-Dec-2014

Docket No. 2015-1395-MLM-E

PCW

Respondent Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks

Policy Revision 4 (April 2014)

Case ID No. 49831

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102398427

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rebecca Boyett

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 334.47(a)(2)

Violation Description

Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an underground storage tank ("UST") system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

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 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 2

49 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Two monthly events are recommended from the October 13, 2014 investigation date to the December 1, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,015

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

## Economic Benefit Worksheet

**Respondent** Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks  
**Case ID No.** 49831  
**Reg. Ent. Reference No.** RN102398427  
**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)	\$28,000	7-Apr-2014	1-Jun-2016	2.15	\$3,015	n/a	\$3,015

Notes for DELAYED costs

Estimated minimum cost to permanently remove the UST system from service. The Date Required is the date of the initial investigation and the Final Date is the estimated date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$28,000

**TOTAL**

\$3,015

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# Compliance History Report

**PUBLISHED** Compliance History Report for CN604566638, RN102398427, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN604566638, SAMANA, JAWAID W      **Classification:** HIGH      **Rating:** 0.00

**Regulated Entity:** RN102398427, Z EXPRESS      **Classification:** HIGH      **Rating:** 0.00

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

**CH Group:** 14 - Other

**Location:** 2525 SOUTHMORE AVE PASADENA, TX 77502-1451, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):** PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 40106

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

**Date Compliance History Report Prepared:** June 15, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 15, 2010 to June 15, 2015

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

**Name:** Rebecca Boyett

**Phone:** (512) 239-2503

## 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?
  - H. Erwin Wilbanks OPERATOR since 8/4/2014
  - SAMANA, JAWAID W OPERATOR since 5/19/2011
  - KJ HOLDINGS, INC. OPERATOR since 8/4/2014
  - Inshala Charities, Inc. OWNER since 5/19/2011
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? EDIGEN INC, OPERATOR, 1/21/2009 to 5/18/2011
- 5) If **YES**, when did the change(s) in owner or operator occur? 5/19/2011

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

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

N/A

### B. Criminal convictions:

N/A

### C. Chronic excessive emissions events:

N/A

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

Item 1      January 29, 2012      (971069)

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

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

N/A

### F. Environmental audits:

N/A

### G. Type of environmental management systems (EMSs):

N/A

### H. Voluntary on-site compliance assessment dates:

N/A

### I. Participation in a voluntary pollution reduction program:

N/A

### J. Early compliance:

N/A

### Sites Outside of Texas:

N/A

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# Compliance History Report

**PUBLISHED** Compliance History Report for CN604700864, RN102398427, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN604700864, KJ HOLDINGS, INC. **Classification:** UNCLASSIFIED **Rating:** -----

**Regulated Entity:** RN102398427, Z EXPRESS **Classification:** UNCLASSIFIED **Rating:** -----

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

**CH Group:** 14 - Other

**Location:** 2525 SOUTHMORE AVE PASADENA, TX 77502-1451, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):** **PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 40106

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

**Date Compliance History Report Prepared:** June 15, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 15, 2010 to June 15, 2015

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

**Name:** Rebecca Boyett

**Phone:** (512) 239-2503

## **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?
  - H. Erwin Wilbanks OPERATOR since 8/4/2014
  - SAMANA, JAWAID W OPERATOR since 5/19/2011
  - KJ HOLDINGS, INC. OPERATOR since 8/4/2014
  - Inshala Charities, Inc. OWNER since 5/19/2011
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? EDIGEN INC, OPERATOR, 1/21/2009 to 5/18/2011
- 5) If **YES**, when did the change(s) in owner or operator occur? 5/19/2011

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

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

N/A

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

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

N/A

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

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

N/A

### **F. Environmental audits:**

N/A

### **G. Type of environmental management systems (EMSs):**

N/A

### **H. Voluntary on-site compliance assessment dates:**

N/A

### **I. Participation in a voluntary pollution reduction program:**

N/A

### **J. Early compliance:**

N/A

### **Sites Outside of Texas:**

N/A

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# Compliance History Report

**PUBLISHED** Compliance History Report for CN604700849, RN102398427, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN604700849, H. Erwin Wilbanks

**Classification:** UNCLASSIFIED

**Rating:** -----

**Regulated Entity:** RN102398427, Z EXPRESS

**Classification:** UNCLASSIFIED

**Rating:** -----

**Complexity Points:** 4

**Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 2525 SOUTHMORE AVE PASADENA, TX 77502-1451, HARRIS COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

**ID Number(s):** PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 40106

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

**Date Compliance History Report Prepared:** June 15, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** June 15, 2010 to June 15, 2015

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

**Name:** Rebecca Boyett

**Phone:** (512) 239-2503

## 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?
  - H. Erwin Wilbanks OPERATOR since 8/4/2014
  - SAMANA, JAWAID W OPERATOR since 5/19/2011
  - KJ HOLDINGS, INC. OPERATOR since 8/4/2014
  - Inshala Charities, Inc. OWNER since 5/19/2011
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? EDIGEN INC, OPERATOR, 1/21/2009 to 5/18/2011
- 5) If YES, when did the change(s) in owner or operator occur? 5/19/2011

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

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

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

N/A

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

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

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JAWAID W. SAMANA,  
KJ HOLDINGS, INC., AND  
H. ERWIN WILBANKS;  
RN102398427**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2015-1395-MLM-E**

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

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks (collectively "Respondents") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondents together stipulate that:

1. Respondents owned and operated, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an inactive underground storage tank ("UST") system located at 2525 Southmore Avenue in Pasadena, Harris County, Texas (Facility ID No. 40106) (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 or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and Respondents agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondents are subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondents of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of eight thousand seven hundred fifty dollars (\$8,750.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondents paid three hundred fifty dollars (\$350.00) of the penalty. The remaining amount of eight thousand four hundred dollars (\$8,400.00) shall be paid in thirty-five (35) monthly payments of two hundred forty dollars (\$240.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondents fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may 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, Respondents' failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondents to

timely and satisfactorily comply with all the terms of this Order. The Executive Director and Respondents agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.

5. 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 Respondents has not complied with one or more of the terms or conditions contained in this Order.
6. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
7. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
8. The Executive Director recognizes that Respondents implemented the following corrective measures at the Facility as of December 10, 2015:
  - a. Permanently removed the UST system from service; and
  - b. Submitted an amended registration updating the current owner and operator information and reflecting the operational status of the UST system as permanently removed from service.

## **II. ALLEGATIONS**

1. After investigations conducted on April 7, 2014 and October 13, 2014, TCEQ staff documented that Respondents:
  - a. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE §§ 334.7(d)(3) and 334.54(e)(2). Specifically, the registration had not been updated to reflect the current owner, operator, and operational status of the UST system; and
  - b. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).

## **III. DENIALS**

Respondents generally deny each Allegation in Section II.

## **IV. ORDERING PROVISIONS**

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

1. Respondents are assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondents' compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Jawaid W. Samana, KJ HOLDINGS, INC., and H. Erwin Wilbanks, Docket No. 2015-1395-MLM-E" to:

Financial Administration Division, Revenue Operations 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 Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondents. 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.
4. 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.
5. 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.
6. This Order, issued by the Commission, shall not be admissible against Respondents in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
For the Executive Director

\_\_\_\_\_  
Date



March 4, 2016

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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.

\_\_\_\_\_  
Signature - Jawaid W. Samana, President  
KJ HOLDINGS, INC.  
22614 Aldine Westfield Road  
Spring, Texas 77373

\_\_\_\_\_  
Date

1-18-2016

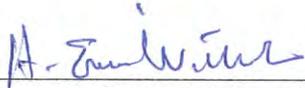
*If mailing address has changed, please check this box and provide the new address below:*

\_\_\_\_\_  
Signature - Jawaid W. Samana, Individually  
7519 Talbot Court  
Sugar Land, Texas 77496

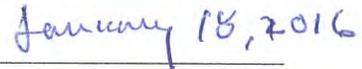
\_\_\_\_\_  
Date

1-18-2016

*If mailing address has changed, please check this box and provide the new address below:*



Signature - H. Erwin Wilbanks  
One Riverway, Suite 1700  
Houston, Texas 77056



Date

*If mailing address has changed, please check this box and provide the new address below:*

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