

**EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 50498
ALAUDDIN INVESTMENTS, INC. d/b/a Kwik Trip Food Store 2
RN101759520
Docket No. 2015-0701-PST-E**

Order Type:

Default Shutdown Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

5700 South Flores Street, San Antonio, Bexar County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

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

Texas Register Publication Date: August 12, 2016

Comments Received: None

Penalty Information

Total Penalty Assessed: \$19,687

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$19,687

Compliance History Classifications:

Person/CN – Satisfactory
Site/RN – Satisfactory

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): February 3, 2015

Complaint Information: Alleged facility has expired TCEQ delivery certificate.

Date(s) of Investigation: February 19, 2015

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

Date(s) of NOE(s): April 8, 2015

Violation Information

1. 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), and failed to provide release detection for the pressurized piping associated with the UST system by failing to conduct the annual line leak detector and piping tightness testing [TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2)].
2. Failed to identify and designate for the Facility at least one named individual for each class of operator - Class A, Class B, and Class C [30 TEX. ADMIN. CODE §§ 334.602(a) and 334.603(b)].
3. Failed to operate and maintain the UST system in accordance with accepted industry practices [30 TEX. ADMIN. CODE § 334.48(b)].
4. Failed to ensure the corrosion protection system was operated and maintained in a manner that will ensure corrosion protection is continuously provided to the UST system, failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.49(a)(2), (c)(2)(C) and (c)(4), and 334.54(c)(1)].
5. Failed to equip the UST system with overflow prevention equipment [TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(b)].
6. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight [30 TEX. ADMIN. CODE § 334.42(i)].
7. Failed to ensure that a legible tag, label or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].
8. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)(1)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

None

Technical Requirements:

1. Immediately shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.
2. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection, corrosion protection, and spill/overflow prevention violations have been corrected and Respondent obtains a new fuel delivery certificate for the Facility.

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 50498
ALAUDDIN INVESTMENTS, INC. d/b/a Kwik Trip Food Store 2
RN101759520
Docket No. 2015-0701-PST-E

3. The Facility's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order, including payment of the administrative penalty in full.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days, Respondent shall surrender the Facility's UST fuel delivery certificate to the TCEQ.
6. Within 15 days, submit a detailed written report documenting the steps taken to comply with Technical Requirements Nos. 1, 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
 - a. Begin maintaining all UST records;
 - b. Implement a release detection method for the UST system at the Facility;
 - c. Designate and train a Facility operator for each class of operator - Class A, Class B, and Class C;
 - d. Begin maintaining equipment for the USTs, including the seal caps;
 - e. Repair and test the corrosion protection system, with passing results;
 - f. Begin conducting inspections of the impressed current cathodic protection system at least once every 60 days;
 - g. Equip the UST system with overfill prevention equipment;
 - h. Begin conducting bimonthly inspections of all sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days;
 - i. Permanently apply or affix legible tags, labels, or markings to either the top of the UST fill tubes or to a non-removable point in the immediate area of the fill tubes with an indented number that matches the number listed on the UST registration and self-certification form; and
 - j. Obtain a new fuel delivery certificate.
8. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.
9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirements Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: February 23, 2016
Date Green Card(s) Signed: February 26, 2016
Date Answer(s) Filed: N/A

Contact Information

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

TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, (713) 767-3682

TCEQ Regional Contact: Cameron Lopez, San Antonio Regional Office, (210) 490-3096

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 50498
ALAUDDIN INVESTMENTS, INC. d/b/a Kwik Trip Food Store 2
RN101759520
Docket No. 2015-0701-PST-E

Respondent Contact: Amin Mohammed, President and Director, ALAUDDIN INVESTMENTS, INC.,
551 Fredericksburg Road, San Antonio, Texas 78201

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	13-Apr-2015		
	PCW	5-Jan-2016	Screening	27-Apr-2015
			EPA Due	

RESPONDENT/FACILITY INFORMATION	
Respondent	ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Reg. Ent. Ref. No.	RN101759520
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	50498	No. of Violations	8
Docket No.	2015-0701-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	25.0% Enhancement	Subtotals 2, 3, & 7	\$3,750
---------------------------	-------------------	--------------------------------	---------

Notes: Enhancement for one default order.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$1,263
 Estimated Cost of Compliance: \$6,442
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,750
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	5.0%	Adjustment	\$937
---	------	-------------------	-------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided costs associated with violations nos. 1, 4, and 6.

Final Penalty Amount	\$19,687
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$19,687
-----------------------------------	-------------------------------	----------

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

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.

PAYABLE PENALTY	\$19,687
------------------------	----------

Screening Date 27-Apr-2015

Docket No. 2015-0701-PST-E

PCW

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2

Policy Revision 4 (April 2014)

Case ID No. 50498

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101759520

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

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%
	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 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) 25%

>> 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 default order.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 25%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 25%

Screening Date 27-Apr-2015 **Docket No.** 2015-0701-PST-E **PCW**
Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2 *Policy Revision 4 (April 2014)*
Case ID No. 50498 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101759520
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Danielle Porras

Violation Number

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 Respondent had not conducted the annual line leak detector and piping tightness testing.

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="15.0%"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="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

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

Violation Base Penalty

One quarterly event is recommended from the February 19, 2015 investigation to the April 27, 2015 screening date.

Good Faith Efforts to Comply Reduction

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

Notes
 The Respondent does 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 ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Case ID No. 50498
Reg. Ent. Reference No. RN101759520
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)	\$1,500	19-Feb-2015	27-Jan-2016	0.94	\$70	n/a	\$70

Notes for DELAYED costs: Estimated cost to implement a method of release detection for the USTs at the Facility. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$118	19-Feb-2014	19-Feb-2015	1.92	\$11	\$118	\$129
Other (as needed)				0.00	\$0	\$0	\$0

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 \$200

Screening Date 27-Apr-2015

Docket No. 2015-0701-PST-E

PCW

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2

Policy Revision 4 (April 2014)

Case ID No. 50498

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101759520

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 334.602(a) and 334.603(b)

Violation Description

Failed to identify and designate for the UST facility at least one named individual for each class of operator - Class A, Class B, and Class C.

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 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

67 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the February 19, 2015 investigation to the April 27, 2015 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 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 \$8

Violation Final Penalty Total \$1,641

This violation Final Assessed Penalty (adjusted for limits) \$1,641

Economic Benefit Worksheet

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Case ID No. 50498
Reg. Ent. Reference No. RN101759520
Media Violation No. Petroleum Storage Tank
 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	\$165	19-Feb-2015	27-Jan-2016	0.94	\$8	n/a	\$8
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 obtain the required Class A, B, and C operator training. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$165

TOTAL

\$8

Screening Date 27-Apr-2015

Docket No. 2015-0701-PST-E

PCW

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2

Policy Revision 4 (April 2014)

Case ID No. 50498

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101759520

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 334.48(b)

Violation Description

Failed to operate and maintain the UST system in accordance with accepted industry practices. Specifically, the seal caps for the USTs were broken or missing.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment was exposed to insignificant amounts of pollutants that did 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

67 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
single event		

Violation Base Penalty \$1,250

One quarterly event is recommended from the February 19, 2015 investigation to the April 27, 2015 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 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 \$8

Violation Final Penalty Total \$1,641

This violation Final Assessed Penalty (adjusted for limits) \$1,641

Economic Benefit Worksheet

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Case ID No. 50498
Reg. Ent. Reference No. RN101759520
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$120	19-Feb-2015	27-Jan-2016	0.94	\$0	\$7	\$8
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 replace three seal caps for the USTs. 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)

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 \$120

TOTAL \$8

Screening Date 27-Apr-2015 **Docket No.** 2015-0701-PST-E **PCW**
Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2 *Policy Revision 4 (April 2014)*
Case ID No. 50498 *PCW Revision March 26, 2014*
Reg. Ent. Reference No. RN101759520
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Danielle Porras

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code §§ 334.49(a)(2), (c)(2)(C), (c)(4) and 334.54(c)(1) and Tex. Water Code § 26.3475(d)
Violation Description Failed to ensure the corrosion protection system was operated and maintained in a manner that will ensure corrosion protection is continuously provided to the UST system. Specifically, the wiring for the impressed current corrosion protection system was exposed and not adequately embedded within the concrete. Also, failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial testing had not been conducted.

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 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 67 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 from the February 19, 2015 investigation to the April 27, 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 \$806 **Violation Final Penalty Total** \$4,922

This violation Final Assessed Penalty (adjusted for limits) \$4,922

Economic Benefit Worksheet

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Case ID No. 50498
Reg. Ent. Reference No. RN101759520
Media Violation No. 4
Media Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$1,500	19-Feb-2015	27-Jan-2016	0.94	\$5	\$94	\$98
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	19-Feb-2015	27-Jan-2016	0.94	\$5	n/a	\$5

Notes for DELAYED costs
 Estimated cost to repair and test the corrosion protection system (\$1,500) and estimated cost to develop and implement procedures to inspect the cathodic protection system at least once every 60 days and to have the system tested at least once every three years (\$100). 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]	\$500	19-Feb-2012	19-Feb-2015	3.92	\$98	\$500	\$598
Other (as needed)	\$100	21-Dec-2014	19-Feb-2015	1.08	\$5	\$100	\$105

Notes for AVOIDED costs
 Estimated avoided cost to conduct the triennial test (\$500). The Date Required is three years prior to the investigation date and the Final Date is the investigation date. Estimated avoided cost to conduct bimonthly inspections of the rectifier and other components of the cathodic protection system (\$100). The Date Required is 60 days prior to the investigation date and the Final Date is the investigation date.

Approx. Cost of Compliance \$2,200

TOTAL \$806

Screening Date 27-Apr-2015

Docket No. 2015-0701-PST-E

PCW

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2

Policy Revision 4 (April 2014)

Case ID No. 50498

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101759520

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 5

Rule Cite(s)

30Tex. Admin. Code § 334.51(b) and Tex. Water Code § 26.3475(c)(2)

Violation Description

Failed to equip the UST system with overfill prevention equipment. Specifically, the USTs were not equipped with delivery shut-off valves.

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 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

67 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the February 19, 2015 investigation to the April 27, 2015 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 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 \$108

Violation Final Penalty Total \$1,641

This violation Final Assessed Penalty (adjusted for limits) \$1,641

Economic Benefit Worksheet

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Case ID No. 50498
Reg. Ent. Reference No. RN101759520
Media Violation No. 5
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

Equipment	\$1,639	19-Feb-2015	27-Jan-2016	0.94	\$5	\$102	\$108
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 equip the system with overfill prevention equipment. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,639

TOTAL

\$108

Screening Date 27-Apr-2015

Docket No. 2015-0701-PST-E

PCW

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2

Policy Revision 4 (April 2014)

Case ID No. 50498

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101759520

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 6

Rule Cite(s)

30Tex. Admin. Code § 334.42(i)

Violation Description

Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Specifically, the overspill containers contained liquid and debris.

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 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

67 Number of violation days

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 February 19, 2015 investigation to the April 27, 2015 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 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 \$105

Violation Final Penalty Total \$1,641

This violation Final Assessed Penalty (adjusted for limits) \$1,641

Economic Benefit Worksheet

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Case ID No. 50498
Reg. Ent. Reference No. RN101759520
Media Violation No. Petroleum Storage Tank
 6

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	21-Dec-2014	19-Feb-2015	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of the sumps, manways, overfill containers or catchment basins. The Date Required is 60 days before the investigation and the Final Date is the investigation date.

Approx. Cost of Compliance \$100

TOTAL \$105

Screening Date 27-Apr-2015

Docket No. 2015-0701-PST-E

PCW

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2

Policy Revision 4 (April 2014)

Case ID No. 50498

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101759520

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description

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

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before 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 \$5

Violation Final Penalty Total \$1,641

This violation Final Assessed Penalty (adjusted for limits) \$1,641

Economic Benefit Worksheet

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Case ID No. 50498
Reg. Ent. Reference No. RN101759520
Media Violation No. Petroleum Storage Tank
 7

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)	\$100	19-Feb-2015	27-Jan-2016	0.94	\$5	n/a	\$5

Notes for DELAYED costs Estimated cost to label the tank fill ports. The date required is the investigation date and the final date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Screening Date 27-Apr-2015

Docket No. 2015-0701-PST-E

PCW

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2

Policy Revision 4 (April 2014)

Case ID No. 50498

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101759520

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 8

Rule Cite(s)

30Tex. Admin. Code § 334.10(b)(1)(B)

Violation Description

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

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

67 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before 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 \$23

Violation Final Penalty Total \$1,641

This violation Final Assessed Penalty (adjusted for limits) \$1,641

Economic Benefit Worksheet

Respondent ALAUDDIN INVESTMENTS, INC. dba Kwik Trip Food Store 2
Case ID No. 50498
Reg. Ent. Reference No. RN101759520
Media Violation No. Petroleum Storage Tank
 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	19-Feb-2015	27-Jan-2016	0.94	\$23	n/a	\$23
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to maintain UST records. The Date Required is the investigation date and the Final Date is the estimated 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 \$500

TOTAL \$23

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 CN600949382, RN101759520, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600949382, ALAUDDIN INVESTMENTS, INC. **Classification:** SATISFACTORY **Rating:** 22.50

Regulated Entity: RN101759520, KWIK TRIP FOOD STORE 2 **Classification:** SATISFACTORY **Rating:** 37.50

Complexity Points: 3 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 5700 S FLORES ST SAN ANTONIO, TX 78214-2102, BEXAR COUNTY

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 7068

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

Date Compliance History Report Prepared: April 27, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: April 27, 2010 to April 27, 2015

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

Name: Danielle Porras

Phone: (713) 767-3682

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? Alauddin Investments, Inc. OWNER OPERATOR since 5/1/2012
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? RABBI, FAZLY, OWNER OPERATOR, 9/1/2011 to 4/30/2012
Alauddin Investments, Inc., OWNER OPERATOR, 4/4/1994 to 8/31/2011
- 5) If YES, when did the change(s) in owner or operator occur? 5/1/2012

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

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

1 Effective Date: 11/06/2013

ADMINORDER 2013-0021-PST-E (Findings Order-Default)

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)

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)

30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failed to provide release detection for the pressurized piping associated with the USTs

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 17, 2014 (1140095)

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
ALAUDDIN INVESTMENTS, INC.
DBA KWIK TRIP FOOD STORE 2;
RN101759520**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2015-0701-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the facility's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shut down and remove from service the underground storage tanks ("USTs") located at 5700 South Flores Street in San Antonio, Bexar County, Texas. The respondent made the subject of this Order is ALAUDDIN INVESTMENTS, INC. d/b/a Kwik Trip Food Store 2 ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), a UST system and a convenience store with retail sales of gasoline located at 5700 South Flores Street in San Antonio, Bexar County, Texas (Facility ID No. 7068) (the "Facility"). The USTs at the Facility are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ.
2. During an investigation conducted on February 19, 2015, an 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), and failed to provide release detection for the pressurized piping associated with the UST system by failing to conduct the annual line leak detector and piping tightness testing;
 - b. Failed to identify and designate for the Facility at least one named individual for each class of operator - Class A, Class B, and Class C;
 - c. Failed to operate and maintain the UST system in accordance with

- accepted industry practices. Specifically, the seal caps for the USTs were broken or missing;
- d. Failed to ensure the corrosion protection system was operated and maintained in a manner that will ensure corrosion protection is continuously provided to the UST system. Specifically, the wiring for the impressed current corrosion protection system was exposed and not adequately embedded within the concrete. Also, failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also, failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial testing had not been conducted;
 - e. Failed to equip the UST system with overflow prevention equipment. Specifically, the USTs were not equipped with delivery shut-off valves;
 - f. Failed to inspect all sumps, manways, overflow containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Specifically, the overflow containers contained liquid and debris;
 - g. Failed to ensure that a legible tag, label or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form; and
 - h. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel.
3. By letter dated April 8, 2015, Respondent was provided with written notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overflow prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
 4. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of ALAUDDIN INVESTMENTS, INC. d/b/a Kwik Trip Food Store 2" (the "EDPRP") in the TCEQ Chief Clerk's office on February 23, 2016.
 5. By letter dated February 23, 2016, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on February 26, 2016.

6. More than 20 days have elapsed since Respondent received notice of the EDRP. Respondent failed to file an answer and failed to request a hearing.
7. By letter dated June 27, 2016, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Facility to be shut down and removed from service if Respondent failed to correct the release detection, corrosion protection, and spill/overfill prevention violations within 30 days after Respondent's receipt of the notice.
8. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection, corrosion protection, and spill/overfill prevention violations alleged in Findings of Fact Nos. 2.a., 2.d., and 2.e. have been corrected.
9. The USTs at the Facility do not have release detection, corrosion protection, and spill/overfill prevention as required by TEX. WATER CODE § 26.3475(a), (c)(1), (c)(2) and (d), and 30 TEX. ADMIN. CODE §§ 334.49(a)(2), (c)(2)(C) and (c)(4), 334.50(b)(1)(A) and (b)(2), 334.51(b), and 334.54(c)(1), and may be releasing petroleum products to the environment. Therefore, conditions at the Facility constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to provide release detection for the pressurized piping associated with the UST system by failing to conduct the annual line leak detector and piping tightness testing, in violation of TEX. WATER CODE § 26.3475(a) and (c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (b)(2).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to identify and designate for the Facility at least one named individual for each class of operator - Class A, Class B, and Class C, in violation of 30 TEX. ADMIN. CODE §§ 334.602(a) and 334.603(b).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to operate and maintain the UST system in accordance with accepted industry practices, in violation of 30 TEX. ADMIN. CODE § 334.48(b).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to ensure the corrosion protection system was operated and maintained in a manner that will ensure corrosion protection is continuously provided to the UST system, failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly, and failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a

- frequency of at least once every three years, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.49(a)(2), (c)(2)(C) and (c)(4), and 334.54(c)(1).
6. As evidenced by Finding of Fact No. 2.e., Respondent failed to equip the UST system with overfill prevention equipment, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(b).
 7. As evidenced by Finding of Fact No. 2.f., Respondent failed to inspect all sumps, manways, overspill containers or catchment basins associated with the UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight, in violation of 30 TEX. ADMIN. CODE § 334.42(i).
 8. As evidenced by Finding of Fact No. 2.g., Respondent failed to ensure that a legible tag, label or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube for each regulated UST according to the UST registration and self-certification form, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(C).
 9. As evidenced by Finding of Fact No. 2.h., Respondent failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b)(1)(B).
 10. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
 11. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
 12. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
 13. An administrative penalty in the amount of nineteen thousand six hundred eighty-seven dollars (\$19,687.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
 14. As evidenced by Findings of Fact Nos. 2.a., 2.d., 2.e., 3, 7, and 8, Respondent failed to correct documented violations of TCEQ release detection, corrosion protection, and spill/overfill prevention requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Facility.
 15. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days

after receiving notice of the violations, the owner or operator fails to correct violations of TCEQ regulatory requirements relating to release detection for tanks and/or piping, spill and/or overfill prevention for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.

16. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
17. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
18. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6, and Conclusions of Law Nos. 2 through 11.
19. As evidenced by Findings of Fact Nos. 8 and 9, current conditions at the Facility constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date it is signed by the Commission.

ORDERING PROVISIONS

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

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Facility:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Secure the dispensers to prevent access;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order, including payment of the administrative penalty in full.
3. The USTs at the Facility shall remain out of service, pursuant to TEX. WATER CODE § 26.3475(e) and as directed by Ordering Provisions Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the release detection, corrosion protection, and spill/overfill prevention violations noted in Conclusions of Law Nos. 2, 5, and

6 have been corrected and Respondent obtains a new fuel delivery certificate for the Facility.

4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Facility until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report, in accordance with Ordering Provision No. 13, below, documenting the steps taken to comply with Ordering Provisions Nos. 1.a. through 1.e., 4 and 5.
7. If Respondent elects to permanently remove from service any portion of the UST system at the Facility, Respondent shall, immediately upon the effective date of this Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, shall submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087
8. Respondent is assessed an administrative penalty in the amount of nineteen thousand six hundred eighty-seven dollars (\$19,687.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
9. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: ALAUDDIN INVESTMENTS, INC. d/b/a Kwik Trip Food Store 2; Docket No. 2015-0701-PST-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

10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Begin maintaining all UST records, in accordance with 30 TEX. ADMIN. CODE § 334.10;
 - b. Implement a release detection method for the UST system at the Facility, including specifically conducting the annual line leak detector test for the pressurized piping, in accordance with 30 TEX. ADMIN. CODE § 334.50;
 - c. Designate and train a Facility operator for each class of operator - Class A, Class B, and Class C, in accordance with 30 TEX. ADMIN. CODE § 334.603;
 - d. Begin maintaining equipment for the USTs, including the seal caps, in accordance with 30 TEX. ADMIN. CODE § 334.48;
 - e. Repair and test the corrosion protection system, with passing results, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - f. Begin conducting inspections of the impressed current cathodic protection system at least once every 60 days, in accordance with 30 TEX. ADMIN. CODE § 334.49;
 - g. Equip the UST system with overflow prevention equipment, in accordance with 30 TEX. ADMIN. CODE § 334.51;
 - h. Begin conducting bimonthly inspections of all sumps, manways, overflow containers or catchment basins associated with the UST system at least once every 60 days, in accordance with 30 TEX. ADMIN. CODE § 334.42;
 - i. Permanently apply or affix legible tags, labels, or markings to either the top of the UST fill tubes or to a non-removable point in the immediate area of the fill tubes with an indented number that matches the number listed on the UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8; and
 - j. Obtain a new fuel delivery certificate from the TCEQ.
11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provisions Nos. 10 and 11.
13. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Respondent shall submit the written certifications and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233

14. All relief not expressly granted in this Order is denied.
15. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
16. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
17. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

18. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
19. 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.
20. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
21. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

AFFIDAVIT OF ELIZABETH LIEBERKNECHT

STATE OF TEXAS

§
§
§

COUNTY OF TRAVIS

"My name is Elizabeth Lieberknecht. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of ALAUDDIN INVESTMENTS, INC. d/b/a Kwik Trip Food Store 2" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on February 23, 2016.

The EDPRP was mailed to Respondent's last known address on February 23, 2016, via certified mail, return receipt requested, postage prepaid. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDPRP on February 26, 2016.

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

By letter dated June 27, 2016, sent via first class mail and certified mail, return receipt requested article no. 7013 3020 0000 8592 3421, I provided Respondent with notice of the TCEQ's intent to order the USTs at the Facility be shut down and removed from service if the violations pertaining to release detection, corrosion protection, and spill/overfill prevention were not corrected within 30 days of Respondent's receipt of the letter. According to the return receipt "green card," Respondent received the notice on June 29, 2016. The first class mail has not been returned.

As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the release detection, corrosion protection, and spill/overfill prevention violations noted during the February 19, 2015, investigation."

Elizabeth Lieberknecht

Elizabeth Lieberknecht, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

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

Subscribed and sworn to before me on this 21st day of July, A.D. 2016.

Megan Schimcek

Notary Public, State of Texas

