

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Protecting Texas by Reducing and Preventing Pollution

December 15, 2011

Via Facsimile to (512) 322-2061
The Honorable Lilo D. Pomerleau
State Office of Administrative Hearings
300 W. 15th Street, Suite 504
Austin, Texas 78701-1649

Re: Ali Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc.
TCEQ Docket No. 2010-1326-PST-E
SOAH Docket No. 582-11-3204

Dear Judge Pomerleau:

Please find enclosed a copy of the "Executive Director's Response to Respondents' Exceptions" and attached exhibits.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Frazee".

Stephanie J. Frazee, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality
Stephanie.Frazee@tceq.texas.gov

Enclosure

cc: Blas Coy, Public Interest Counsel
Danielle Porras, Enforcement Division
Todd Thompson, Waste Section Manager

**SOAH DOCKET NO. 582-11-3204
TCEQ DOCKET NO. 2010-1326-PST-E**

EXECUTIVE DIRECTOR OF THE	§	BEFORE THE
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY,	§	
Petitioner	§	
v.	§	STATE OFFICE OF
	§	
ALI ZULFIQAR D/B/A MINI MART	§	
102 AND ZQS CORPORATION D/B/A	§	
MINI MART 102,	§	
Respondents	§	ADMINISTRATIVE HEARINGS

**EXECUTIVE DIRECTOR'S RESPONSE TO RESPONDENTS' EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S PROPOSED ORDER**

TO: The Honorable Lilo Pomerleau, Administrative Law Judge, State Office of Administrative Hearings

NOW COMES the Executive Director ("ED") of the Texas Commission on Environmental Quality ("TCEQ" or "Commission") and responds to Ali Zulfiqar d/b/a Mini Mart 102 ("Mr. Zulfiqar") and ZQS Corporation d/b/a Mini Mart 102's ("ZQS") (collectively, "Respondents") Exceptions to the Administrative Law Judge's ("ALJ") Proposed Order, pursuant to 30 TEX. ADMIN. CODE § 80.257 and 1 TEX. ADMIN. CODE § 155.507.

In support thereof, the ED would show that Respondents have not provided any legal or factual justification for any changes to the Proposed Order, nor do Respondents provide any arguments to refute the evidence presented at the evidentiary hearing. The ED respectfully disagrees with Respondents' Exceptions to the ALJ's Proposed Order as set forth below and requests that the ALJ's Proposed Order be adopted as written with the incorporation of the ED's minor exceptions.

I. INTRODUCTION

This case involves seven violations of petroleum storage tank rules and a penalty of \$19,868. Respondents own and operate the underground storage tank ("UST") system and a gasoline station with a convenience store located at 2311 25th Avenue, Texas City, Galveston County, Texas (the "Facility").

Respondents argue in their Exceptions that the Proposed Order violates the Texas the United States Constitutions, specifically in regards to due process, excessive fines and penalties, and separation of powers.¹ Respondents also argue that Mr. Zulfiqar did not own the Facility, the ED was required to prove scienter on the part of Respondents for the violations, the ED did not prove that Respondents did not have adequate financial assurance, there was no release of hydrocarbons into the environment, water did not enter the USTs, the penalty was incorrectly calculated, and the Financial Inability to Pay analysis was incorrectly performed.

The ED agrees with the ALJ's Proposed Order and disagrees with Respondents' interpretation of the Order. The ED supposed the ALJ's Proposed Order as written with the incorporation of the ED's Exceptions, which were filed on November 28, 2011.

III. STANDARD FOR MODIFICATION OF A PROPOSED ORDER

The ED respectfully requests that the Commission adopt the ALJ's order as amended by the ED's exceptions and not adopt any of the changes requested by the Respondents. The law specifies that the Commission may reject the ALJ's proposed order and approve its own order, but the Commission's order must be based solely on the record made before the ALJ, and the

¹ Respondents raise these constitutional issues generally, but do not refer back to them specifically in their arguments. Therefore, the ED will respond to Respondents' specific arguments as presented in Respondents' Exceptions.

Commission must explain the basis of its order. TEX. GOV'T. CODE § 2003.047(m). Furthermore, the Commission must also determine:

- (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies . . . or prior administrative decisions;
- (2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
- (3) that a technical error in a finding of fact should be changed.

TEX. GOV'T CODE § 2001.058(e). The ED is required to prove the occurrence of the violations and the appropriateness of the proposed penalty by a preponderance of the evidence. 30 TEX.

ADMIN. CODE § 80.17(d). The evidence and testimony presented at the evidentiary hearing show that the ED met his burden.

III. DISCUSSION OF RESPONDENTS' EXCEPTIONS

(A) Ownership

Respondents argue that they do not own the Facility because they do not own the real property. An owner of a UST system is "[a]ny person who holds legal possession or ownership of an interest in an underground storage tank (UST) system." 30 TEX. ADMIN. CODE § 334.2(73). It is not necessary for Mr. Zulfiqar to own the real estate at the Facility in order to hold legal ownership of the UST system. According to the Harris County Appraisal District records, the Bill of Sale and Lease Agreement between Binh Tran and Respondents, and the UST Registration Form dated September 20, 2010, Mr. Zulfiqar was the owner of the UST system located at the Facility. Exhibits ED-5, ED-6, ED-7, and ED-8.²

Respondents argue that the Bill of Sale introduced as evidence of ownership by the ED at the evidentiary hearing "contains no words of conveyance." The Bill of Sale, which was signed by

²The evidence and testimony presented at the hearing also established that Respondents operate the Facility.

Executive Director's Response to Respondents' Exceptions
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Mr. Zulfiqar and Mr. Binh Tran, states that the Seller is Binh Tran and the Buyer is Ali Zulfiqar. Exhibit ED-7. It lists the transferred properties as "1. The business with the address of 2311 25th Avenue North, Texas City, Galveston County, Texas 77590; 2. The fixtures and merchandise located at the business; 3. The gasoline pumps and tanks located at the business." Exhibit ED-7. Consideration is listed at \$10,000.00 for the business and a lease for the property where the business is located. Exhibit ED-7. The document further states that "Seller, for the Consideration and subject to the Reservations from Transfer and the Exceptions to Transfer and Warranty, sells, transfers, and delivers the Transferred Properties to Buyer, together with all and singular the rights and appurtenances thereto..." Exhibit ED-7. Stating that the Bill of Sale contains no words of conveyance is disingenuous at best.

Respondents also argue that Binh Tran was responsible for the working condition of the USTs at the time of the Bill of Sale. Whether or not Mr. Tran met his contractual obligations to Mr. Zulfiqar is beyond the scope of this TCEQ enforcement matter. Additionally, any prior obligations of Mr. Tran are irrelevant to whether Mr. Zulfiqar, the owner and operator of the UST system at the time of the investigations, had met his legal requirements as to UST compliance.

Respondents also argue that the definition of "owner" in 30 TEX. ADMIN. CODE § 334.2(73) exceeds the Commission's authority under TEX. WATER CODE § 7.051. Section 7.051 of the Water Code applies to the Commission's authority to assess administrative penalties, not to ownership of USTs. The ED can only speculate as to the basis for Respondents' argument in this regard. The ED met his burden of proof regarding Respondents' ownership and operation of the USTs at the Facility, and the ALJ properly found that Respondents owned the UST system at the time of the violations.

(B) Scienter

Respondents argue that the ED did not prove the required scienter for the violations and imposition of a penalty. Respondents do not, however, refer to any statutes, rules, or case law to support such an evidentiary requirement. The violations alleged at the evidentiary hearing were TEX. WATER CODE §§ 26.3467(a) and 26.3475(a) and 30 TEX. ADMIN. CODE §§ 37.815(a) and (b), 334.7(d)(3), 334.8(c)(5)(A)(i), 334.8(c)(5)(B)(ii), 334.10(b), 334.42(i), 334.50(b), 334.50(b)(2)(A)(i)(III), and 334.54(b)(2). None of these laws or rules contains any elements of intent, knowledge, or scienter on the part of a respondent. Respondents appear to argue that the Texas legislature has included an element of scienter for these violations, but Respondents do not cite to any specific statutes. The authorizing laws under the Texas Water Code do not require the element of scienter to be included in TCEQ's UST rules. See TEX. WATER CODE ch. 26, Subchapter I. Therefore, the ED is not required to prove knowledge, intent, or any other element of scienter for the violations at issue in this case. The ED met his burden in proving that the violations occurred, as the ALJ found.

(C) Financial Assurance

Respondents argue that the USTs had uninterrupted insurance coverage and that the ED did not refute the "uncontroverted testimony" of Mr. Zulfiqar that he had insurance coverage. The evidence at the evidentiary hearing, including Respondents' own documents, however, show that Respondents' insurance coverage started on August 16, 2010. Exhibit ED-26. Additionally, during the investigation on June 16, 2010, Respondents were not able to provide documentation of financial assurance. Testimony of Lisa Merritt, Part 2, 3:34:18-3:35:03.

Mr. Zulfiqar, rather than providing "uncontroverted testimony" that he had the necessary insurance coverage, stated that "Ms. Lisa Merritt explained it to me, and then I told her 'Yes

Ma'am, I will take care of the insurance and all of the things.' Then I called Rick Morgan and they gave me a delivery certificate and insurance as well." Testimony of Ali Zulfiqar, Part 2, 2:58:54-2:59:12. Mr. Zulfiqar also stated that

When Mr. Tran handed it over to me, he got first load on his name, and then he filled out paper on behalf of me to send to Rick Morgan, to give me the insurance, and then they gave me the insurance. I gave them posted checks [inaudible] so they gave me the insurance. 2008, both 2008 and 2009. We didn't sell but we always had insurance.

Testimony of Ali Zulfiqar at 3:06:44-3:07:16. The ED is not disputing that Respondents may have had insurance in 2008 and 2009. The violation is for not having insurance at the time of the investigation in June of 2010. Finally, Mr. Zulfiqar also testified as follows:

A. Since Ms. Lisa walked in, I told her that this is [inaudible] I am first time in gas business, so just assist me. And she was so kind to me, you know. She said 'Yeah, I'll assist you.' She gave me all the charges, what I have to do, and then I started calling people. I called Rick because I have to get insurance. I called Rick Morgan, and I told him because I'm not selling the super gas, so I just have to insure two tanks, so she said it's gonna cost me more, so I said okay. \$2,600 it will cost me yearly. So, I gave her three checks, \$1,000, \$1,000, \$600, for every month she can deposit and give me that insurance.

Q: Again, pre-paid checks, correct?

A: Right. She sent me a delivery certificate and insurance.

Testimony of Ali Zulfiqar, Part 2, 3:12:27-3:13:29. This is hardly uncontroverted testimony that he had uninterrupted insurance coverage, including coverage during the June 2010 investigation. In contrast, his testimony indicates that he had insurance when he took over the Facility in 2008 until 2009, and then failed to have insurance in 2010, when the investigation took place, as he stated that he purchased insurance after the June investigation. Moreover, Respondents did not provide any documentation to show that coverage started prior to the August 16, 2010 policy. Exhibit ED-26. The ED met his burden of proof regarding this violation, and the ALJ properly found that Respondents did not have financial assurance at the time of the investigation.

(D) Pressurized Line Leak Detection

Respondents state that the UST system piping and line leak detectors were eventually tested with passing results. The ED recognized that these tests were performed after the Notice of Enforcement was issued. In accordance with the TCEQ Penalty Policy, the ED included a 10% reduction for good faith efforts to comply in the penalty calculation for this violation. Exhibits ED-17 and ED-18; Testimony of Danielle Porras, Part 1, 0:42:38–0:43:25.

Respondents also state that “no harmful or unauthorized release of hydrocarbons” occurred. The rule at issue states that the “line leak detector shall be tested at least once per year for performance and operational reliability ...” and the “piping may be tested at least once per year by means of a piping tightness test” 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III). Proving a failure to meet this requirement does not require proof of an actual release. Because there was no evidence of a release, this violation was categorized as a “potential” harm to the environment, property, and human health for penalty purposes. Exhibit ED-17; Testimony of Danielle Porras, Part 1, 0:42:38–0:43:25. Potential harms are assessed a lower penalty than actual harms under the TCEQ Penalty Policy. Exhibit ED-18. Thus, the evidence showed that the penalty took into account Respondents’ timely compliance and was correctly calculated for this violation, as the ALJ found.

(E) Spill Bucket Inspections

Respondents argue that scienter was required for the violation of 30 TEX. ADMIN. CODE § 334.42(i) for failing to inspect all sumps, manways, overspill containers, or catchment basins associated with a UST system at least once every 60 days to ensure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid and debris. As stated above, in Section III.B., there is no element of scienter required for this violation or included in the

authorizing statute. 30 TEX. ADMIN. CODE § 334.42(i) and see TEX. WATER CODE ch. 26, Subchapter I.

Respondents also argue that there was no evidence that water had leaked into the fuel tank and that water was only present in the “area below the inlet to the underground fuel tank.” The applicable rule states that

Any sumps (including dispenser sumps) or manways installed prior to January 1, 2009, which are utilized as a integral part of a UST release detection system to monitor the interstitial space of a secondarily contained piping system, and any overspill containers or catchment basins installed at any time, which are associated with a UST system must be inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Any liquid or debris found in them during that inspection or an agency or agency-authorized inspection must be removed and properly disposed of within 96 hours of discovery.

30 TEX. ADMIN. CODE § 334.42(i). A violation of this rule does not require proof that water has entered the UST. The rule requires that the sumps be inspected at least once every 60 days, be kept free of liquid, be maintained liquid-tight, and that water be removed and disposed of within 96 hours of discovery. During the investigation, the investigator observed and documented water in the sumps. Exhibit ED-11. Respondents did not submit any documentation to TCEQ to show that the water was removed after discovery. Testimony of Lisa Merritt, Part 2, 3:35:13–3:35:30. Respondents did not provide any documentation to show that the sumps were being inspected at least once every 60 days. Testimony of Lisa Merritt, Part 2, 3:35:13–3:35:30. Respondents did not meet the requirements of this rule, and the ED met his burden in proving this violation. Moreover, the Penalty Calculation Worksheet categorized this violation as a “potential harm” to account for the fact that no evidence was found that the fuel had become contaminated by liquid or debris from the sumps. Exhibit ED-17 and Testimony of Danielle Porras, Part 1, 0:49:30–0:51:30. And, it was categorized as a potential “moderate” harm to account for the moderate level of harm that was possible due to this violation. Exhibit ED-17 and Testimony of Danielle

Porras, Part 1, 0:49:30–0:51:30. Therefore, the ALJ properly found that the violation occurred and that the penalty was correctly calculated for this violation.

(F) Administrative Penalty Calculation

Respondents argue that Enforcement Coordinator Danielle Porras's testimony was "contaminated" by the Memo issued by former Executive Director Glenn Shankle on July 24, 2007 ("the Memo"). Exhibit ED-22. Respondents argue that TCEQ exceeds its authority by calculating violations by starting at the statutory maximum penalty and applying reductions and/or enhancements. Respondents also argue that the ED exceeded the maximum penalty in this case. Respondents further argue that Ms. Porras testified regarding matters of law that are reserved for the ALJ and that she calculated the penalty incorrectly by not taking into account the "personal circumstances" of the Respondents. Finally, Respondents argue that they were held liable for violations committed by the prior owner of the USTs.

Respondents argue that the Memo directs the Enforcement Division to exceed the statutory maximum. The Memo, however, directs how to apply both penalty enhancements and reductions set forth in TEX. WATER CODE § 7.053. Exhibit ED-22. It says nothing about exceeding the statutory maximum. Exhibit ED-22. The Memo directs the Enforcement Division to calculate penalties by starting at the maximum and adjusting downwards or upwards according to the statutory factors set forth in TEX. WATER CODE § 7.053. Whether the penalty is calculated from zero dollars or from \$10,000 as the starting point, the final penalty would be the same. This Memo cannot be interpreted as exceeding TCEQ's authority, as it directs the Enforcement Division on how to apply the statutory factors to the statutory maximum penalty. In fact, the Penalty Calculation Worksheet contains a formula for reducing a violation penalty that exceeds the statutory maximum. Exhibit ED-17. That calculation was not used in this case

because it was not needed – the maximum was not exceeded for any violation in this case.

Exhibit ED-17 and Testimony of Danielle Porras, Part 1, 1:07:36–1:07:55.

It is unclear how the ED could be said to be imposing a penalty that exceeds the statutory maximum in this case. The maximum penalty, according to TEX. WATER CODE § 7.052, is \$10,000 per day per violation. Therefore, the maximum penalty for this case, under that statute, would be over ten million dollars. This amount would be reached by calculating each violation at the statutory maximum for each day that the violation occurred, as the statute allows. TEX. WATER CODE § 7.052. The ED's calculated penalty of \$19,686 is well under that maximum.

Respondents also claim that Ms. Porras testified regarding matters of law that are reserved for the ALJ. Respondents do not specify what those matters were. Ms. Porras's testimony covered how the penalty was calculated for each violation and the penalty reductions and enhancements that were applied in accordance with TEX. WATER CODE § 7.053 and the TCEQ Penalty Policy, as well as the necessary corrective actions. Testimony of Danielle Porras, Part 2, 0:00:43–1:10:53. These are matters within the Enforcement Coordinator's expertise and job duties. Testimony of Danielle Porras, Part 2, 0:00:43–0:05:28.

Respondents also claim that the Enforcement Coordinator should have considered the Respondents' personal circumstances of "dealing in an unfamiliar line of work, in a second language, with equipment previously maintained by another." As the ALJ stated in her Proposed Order, ignorance of requirements is not an excuse for lack of compliance with TCEQ rules. Moreover, there is no provision in the TCEQ Penalty Policy or the Texas Water Code for reducing a penalty based on a respondent's lack of knowledge of the requirements or lack of business expertise. Therefore, it would have violated TCEQ's authority and policies for the Enforcement Coordinator to reduce the penalty based on those factors. Exhibits ED-17 and ED-18 and TEX.

WATER CODE § 7.053.

Respondents also argue that they were held liable for violations committed by the prior owner of the USTs. Respondents were not held liable for another entity's violations. All of the violations documented during the investigation were occurring at the time of the investigation when Mr. Zulfiqar owned the UST system and thus held responsibility for compliance. Exhibits ED-10 and ED-11. Respondents state that this is not an in rem proceeding. The ED agrees. An in rem proceeding is one "[i]nvolving or determining the rights of a person having an interest in property located within the court's jurisdiction." Black's Law Dictionary (9th ed. 2009). This is a TCEQ enforcement action to determine whether violations occurred, whether a penalty was correctly calculated, and whether recommended corrective actions are appropriate and necessary. The ED agrees that this is not an adjudication of property rights.

Respondents appear to argue that by including the Facility's five year compliance history in the penalty calculation, Respondents are being held liable for violations of the prior owner. The compliance history report for the Facility includes three previous Notices of Violation with same or similar violations, two Notices of Violation for dissimilar violations, and repeat violator status as well as a poor performer classification. Three out of the five prior Notices of Violation were issued before Respondents took ownership of and began operating the UST system at the Facility. Exhibits ED-7 and ED-19. 30 TEX. ADMIN. CODE § 60.1(d) states that

[I]f ownership of the site changed during the five-year compliance period, a distinction of compliance history of the site under each owner during that five-year period shall be made. Specifically, for any part of the compliance period that involves a previous owner, the compliance history will include only the site under review.

30 TEX. ADMIN. CODE § 60.1(d) (emphasis added). Thus, all violations associated to a site will be included in the five year compliance history period, regardless of who was liable at the time of the violation. Testimony of Danielle Porras, Part 2, 0:58:52-1:01:13 and 1:48:50-1:52:00.

The Commission explained its intent to include all compliance history components for a site in its response to comments during the rulemaking process for this provision. 27 TEX. REG. 258 (Jan. 4, 2002). A commenter suggested that “the rule be reworded to provide that the compliance history of all parties who previously owned or operated a site during the applicable five-year period will not be considered in compiling the current owner or operator’s history” and that clarification be added such that “the compliance history of a previous owner will not be considered a component of the compliance history of a new owner.” 27 TEX. REG. 258 (Jan. 4, 2002). The Commission disagreed, stating that

[T]he proposed rule does allow that for any part of the compliance period that involves a different owner, the compliance history will be assessed only for the site under review. Additionally, a five-year compliance history will be prepared for the site under review. The commission believes this is a necessary amount of time to obtain an accurate picture of compliance for each site.... Furthermore, the preamble to the proposed rule stated that for any part of the compliance history that involves a different owner, the compliance history would be assessed for only the site under review.

27 TEX. REG. 258 (Jan. 4 2002) (emphasis added). Thus, the five-year compliance history shall include all violations at a site in order to provide an accurate picture of the compliance history for that site. The five-year compliance history for this Facility includes violations by a prior owner. Exhibit ED-19. Those violations remain with the site for the compliance period and are to be included in the penalty calculation. 30 TEX. ADMIN. CODE § 60.1 and Testimony of Danielle Porras, Part 2, 0:58:52-1:01:13 and 1:48:50-1:52:00.³ The compliance history for this Facility was correctly included in the penalty calculation for this case.

³The compliance history for a site is public information. This information can be obtained from TCEQ's website by an individual or business prior to purchasing a UST system, and the components in the compliance history can be factored in to purchase agreements and business decisions. See http://www.tceq.texas.gov/enforcement/history/get_list.html.

(G) Financial Inability to Pay

Respondents claim that Financial Analyst Paige Seidenberger's testimony should not be accorded any weight because she is not a Certified Public Accountant. As she testified, Ms. Seidenberger has a degree in Finance, worked in the banking industry in various positions for 16 years, including as a loan assistant to the vice president of commercial lending, and she has worked as a Financial Analyst at TCEQ for 11 years. Testimony of Paige Seidenberger, Part 2, 1:56:45-1:58:15. Further, she conducts approximately 40 financial reviews each year and has received on-the-job training in her various positions, and has completed formal courses on financial analysis. Testimony of Paige Seidenberger, Part 2, 1:56:45-1:58:15. Thus, the testimony at the evidentiary hearing established that Ms. Seidenberger is qualified to review and make assessments of a respondent's financial information, as the ALJ found.

Respondents claim that TCEQ sets penalties at a level that will drive respondents out of business and that TCEQ has a "sub rosa policy of determining the amount necessary to bring accused violators to the poverty line and adjusting their arbitrary opinions to support that amount." TCEQ's penalties are based on the directives of the legislature set forth in TEX. WATER CODE §§ 7.052 and 7.053. Through the TCEQ Penalty Policy, the TCEQ has developed a method of calculating penalties that is consistent across cases for each violation. The Penalty Calculation Worksheet was developed to apply the statutory factors as directed by the Penalty Policy.

It is the burden of the respondent to prove that it is unable to pay a penalty. 30 TEX. ADMIN. CODE § 70.8. It would be inappropriate and irresponsible for a TCEQ Financial Analyst to fill in gaps or make assumptions based on incomplete records in order to defer a penalty. Ms. Seidenberger worked with Respondents and their attorney to get additional documents and information until just a few days before the hearing in an effort to get the answers she needed.

Testimony of Paige Seidenberger, Part 2, 2:26:15–2:36:42. But ultimately, Respondents did not provide information that justified a penalty deferral. Exhibit ED-23.

Respondents also argue that the ALJ's Proposed Findings of Fact are arbitrary and capricious based on a printout from the U.S. Department of Health & Human Services webpage listing the 2011 Poverty Guidelines. This Exhibit B to Respondents' Exceptions was not produced during discovery or at the evidentiary hearing and is not part of the record. Moreover, the information contained therein is irrelevant to the fact that Ms. Seidenberger could not recommend a deferral based on Mr. Zulfiqar's cash flow and discrepancies in ZQS's business records. It is a respondent's burden to prove a financial inability to pay a penalty. 30 TEX. ADMIN. CODE § 70.8. As the evidence showed and the ALJ found, Respondents did not meet their burden.

CONCLUSION

Respondents' Exceptions do not meet the statutory requirements for modification of a Proposed Order. Respondents' Exceptions raise irrelevant and flawed arguments that were already addressed at the evidentiary hearing. For these reasons and those set forth above, Respondents' Exceptions should not be adopted.

IV. PRAYER

Accordingly, the ED submits his Response to Respondent's Exceptions and respectfully requests that Respondents' Exceptions be denied. The ED respectfully requests that the Proposed Order, amended with the ED's minor Exceptions, be adopted.

Executive Director's Response to Respondents' Exceptions
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Respectfully Submitted,

Texas Commission on Environmental Quality

Mark R. Vickery, P.G.
Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

Kathleen C. Decker, Director
Litigation Division
Signature of Stephanie J. Frazee 1

By: _____



Stephanie J. Frazee
State Bar of Texas No. 24059778
Litigation Division, MC 175
P.O. Box 13087
Austin, Texas 78711-3087
Telephone: (512) 239-0629
Fax: (512) 239-3434

CERTIFICATE OF SERVICE

I hereby certify on December 15, 2011, the original of the foregoing "Executive Director's Response to Respondents' Exceptions" was filed with the Chief Clerk of the Texas Commission on Environmental Quality, Austin, Texas.

I further certify that on this day, a true and correct copy of the foregoing Motion for Sanctions was sent via:

Electronic Filing

The Honorable Lilo Pomerleau
State Office of Administrative Hearings
William P. Clements Building
300 West 15th Street, Room 504
Austin, Texas 78701

**Via Facsimile: 409-765-6306 and
Certified Mail, Return Receipt Requested, Article No. 7011 0470 0000 2421 2120**

Mark W. Stevens, Attorney at Law
P.O. Box 8118
Galveston, Texas 77553

I further certify that on this day a true and correct copy of the foregoing Motion for Sanctions was electronically submitted to the Office of the Public Interest Counsel, Texas Commission on Environmental Quality, Austin, Texas.



Stephanie J. Frazee
Attorney
Litigation Division
Texas Commission on Environmental Quality

Attachment "ED-5"

PST 39040/CO

Owner's Customer No.: CN

Facility's Regulated Entity No.: RN

TCEQ - UNDERGROUND STORAGE TANK REGISTRATION & SELF-CERTIFICATION FORM

(Use this form for filing registration and self-certification information) Page 1 of 5

For Use in TEXAS 	Texas Commission On Environmental Quality	• Please mail completed form to: Petroleum Storage Tank Registration Team (MC-138) Texas Commission on Environmental Quality P. O. Box 13087 Austin, Texas 78711-3087 (512) 239-2160 Fax (512) 239-3398 *MAKE A COPY OF FORM FOR YOUR RECORDS*	TCEQ Facility ID No.: 39040
			TCEQ Owner ID No.:
			Federal Tax ID No.:

1. TANK OWNER INFORMATION

TANK OWNER BUSINESS OR LAST NAME: ZULFIQAR ALI	TANK OWNER FIRST NAME	TYPE OF TANK OWNER: <input checked="" type="checkbox"/> Individual <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Sole Proprietorship DBA <input type="checkbox"/> Federal Gov't <input type="checkbox"/> State Gov't <input type="checkbox"/> Local Gov't <input type="checkbox"/> County Gov't <input type="checkbox"/> City Gov't <input type="checkbox"/> Other (specify):
OWNER MAILING ADDRESS 2311 25TH AVE. N		LOCATION OF RECORDS: <input checked="" type="checkbox"/> At facility <input type="checkbox"/> Offsite
CITY: TEXAS CITY	STATE: TX	COUNTY OF RECORDS: TRAVIS
COUNTRY (OUTSIDE USA)	E-MAIL ADDRESS: ALI.ZULFIQAR@TCEQ.TX.GOV	OFFSITE RECORDS LOCATION: ADDRESS: CITY: STATE: I hereby certify this is a true and correct copy of a Texas Commission on Environmental Quality (TCEQ) document which is filed in the Records of the Commission Given under my hand and the seal of office.
OWNER'S AUTHORIZED REPRESENTATIVE: ALI ZULFIQAR Owner	TELEPHONE No.: 281,248,7646	FAX NO.: INDEPENDENTLY OWNED & OPERATED Billy R. Wilson, Custodian of Records
STATE FRANCHISE TAX ID	DUNN NO	NUMBER OF EMPLOYEES: <input checked="" type="checkbox"/> 0-20 <input type="checkbox"/> 21-100 <input type="checkbox"/> 101-250 <input type="checkbox"/> 251-500 <input type="checkbox"/> 501 & HIGHER

** For Self-Certification only this form will not be processed until all delinquent fees and/or penalties owed to the TCEQ or the Office of the Attorney General on behalf of the TCEQ are paid in accordance with the Delinquent Fee and Penalty Protocol. **

2. FACILITY INFORMATION

FACILITY NAME: Mini Mart 102	TYPE OF FACILITY: <input checked="" type="checkbox"/> Retail <input type="checkbox"/> Farm or Residential <input type="checkbox"/> Wholesale <input type="checkbox"/> Fleet Refueling <input type="checkbox"/> Aircraft Refueling <input type="checkbox"/> Indian Land <input type="checkbox"/> Indust./Mfg./Chem. Plant <input type="checkbox"/> Watercraft Fueling <input type="checkbox"/> Other (specify):
PHYSICAL LOCATION: 2311 25TH AVE.	Number of regulated *USTs at this facility: 3 *Underground Storage Tanks (USTs)
CITY: TEXAS CITY	Number of regulated *ASTs at this facility: - *Aboveground Storage Tanks (ASTs)
ON-SITE CONTACT PERSON TITLE: TELEPHONE No.: ALI ZULFIQAR Owner 281,248 7646	PRIMARY SIC CODE SECONDARY SIC CODE
E-MAIL ADDRESS: FAX NUMBER	PRIMARY NAICS CODE SECONDARY NAICS CODE
LATITUDE Degrees Minutes Seconds	LONGITUDE Degrees Minutes Seconds

3. TANK OPERATOR INFORMATION (mark here if same as owner)

* "Operator" means any person in day-to-day control of, and having responsibility for, the daily operation of the UST system.

TCEQ Operator ID No.: (Assigned by TCEQ) **CN**

TANK OPERATOR NAME: (Do NOT list employees of operator)	TYPE OF TANK OPERATOR: <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Sole Proprietorship DBA <input type="checkbox"/> Federal Gov't <input type="checkbox"/> State Gov't <input type="checkbox"/> County Gov't <input type="checkbox"/> City Gov't <input type="checkbox"/> Local Gov't
MAILING ADDRESS:	<input type="checkbox"/> Other (specify):
CITY: STATE: ZIP CODE: COUNTY:	Date listed person became operator: SEP 21 2010
OPERATOR'S AUTHORIZED REPRESENTATIVE: TITLE: TELEPHONE No.:	201000 SEP 21 000103

EXHIBIT
ED-5

TCEQ Facility ID No 39040

TCEQ-UST REGISTRATION & SELF-CERTIFICATION FORM

7. SELF-CERTIFICATION OF COMPLIANCE WITH UST REQUIREMENTS

Important: Completion of this section is required before TCEQ issues a UST Delivery Certificate. Delivery of regulated substances into regulated USTs is prohibited by state law unless a valid, current Delivery Certificate is available and/or displayed at the UST facility. Any responses marked "NO", or any incomplete submittal, will result in non-issuance of a Delivery Certificate for this facility.

● INDICATE RESPONSES TO EACH QUESTION BY MARKING X IN THE APPROPRIATE SPACE AT THE RIGHT.		YES	NO
REGISTRATION	● For regulated UST systems at the facility indicated below, is the registration information filed with the TCEQ pursuant to §334.7 of TCEQ rules (including information in this filing) complete, accurate, & up-to-date?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FACILITY FEES	● For regulated UST systems at the facility indicated below, have all facility fees billed to date to the current owner been paid in full (i.e., annual fees plus all late fees, penalties, & interest)? (Does not apply to common carrier railroads)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FINANCIAL ASSURANCE	● For regulated UST systems at the facility indicated below, does financial assurance coverage meet TCEQ requirements, as described in Chapter 37 Subchapter I of TCEQ rules, for first-party corrective action, third-party bodily-injury, and third-party property damage in the event of a petroleum release from these UST systems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
TECHNICAL STANDARDS	● For regulated UST systems at the facility indicated below, are all in compliance with technical standards, as described in TCEQ rules in §334.49 (relating to Corrosion Protection), §334.50 (relating to Release Detection), §334.51 (relating to Spill and Overfill Prevention and Control) and §334.43 (relating to Variances and Alternative Procedures) if a written variance to all or part of the requirements of the previous three sections has been granted by the TCEQ? (A "Yes" response indicates that recordkeeping requirements and reporting duties have been met for 60 days prior to and including the date of certification.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I am certifying that the following UST systems at this facility are in compliance: Tank ID #(s) 1A, 2A, 3A, as numbered on Pages 4 and 5 of this form. If certifying more UST systems, please list additional ID #s on another form.

This Self-Certification will not be processed or Delivery Certificate created unless Proof of Financial Assurance has been provided with this form. (State & Federal Entities Exempt).

8. FINANCIAL ASSURANCE INFORMATION

Financial Assurance (Petroleum USTs only)
 Does this facility meet Financial Assurance (FA) requirements for both 1st party corrective action and 3rd party bodily injury/property damage liability? Yes No Exempt (state and federal entities only)

If YES, identify FA mechanism(s): Insurance (or risk retention group) Financial test Guarantee* Letter of credit*
 Surety bond* Local Gov. financial test** Local Gov. guarantee** Trust fund

*Also requires stand-by trust fund. ** Only available to local governments (counties, municipalities, and special districts).

Information pertaining to the financial assurance mechanism(s) used to demonstrate financial assurance under Chapter 37, Subchapter I of Title 30, Texas Administrative Code is as follows:

Name of Issuer: <u>Colony Insurance Co.</u>	Phone # of Issuer:	Policy or mechanism #: <u>PP3641170</u>
Coverage period Beginning: <u>8/16/10</u> Ending: <u>8/16/11</u>	Coverage Amount <u>\$ 1,000,000</u>	Insurance Premium pre-paid for entire year?*** <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No ***For Information purposes only

For questions regarding Financial Assurance, call the Financial Assurance Section at (512) 239-0300

9. TANK OWNER/OPERATOR SELF-CERTIFICATION (for Delivery Certificate)

I hereby certify under penalty of law to the following:

- I am the (mark one): owner ... legally-authorized representative of the owner ...
 operator ... legally-authorized representative of the operator ...
 ... of the regulated underground storage tank (UST) systems at this facility; AND
- I have personally examined and am familiar with the information included in Sections 1 through 4 AND 7; AND 8
- Based on my current knowledge and understanding, the submitted information is true, accurate, and complete; AND
- I understand that any person who intentionally or knowingly submits false information on this form is subject to criminal prosecution.

PRINTED NAME OF OWNER/OPERATOR (OR AUTHORIZED REPRESENTATIVE) _____ TITLE _____

SIGNATURE OF OWNER/OPERATOR (OR AUTHORIZED REPRESENTATIVE) _____ DATE OF SIGNATURE (PLEASE PRINT) _____

10. TANK OWNER/OPERATOR REGISTRATION (for Initial Registration or Changes)

I hereby represent the following:

- I am the (mark one): owner ... legally-authorized representative of the owner ...
 operator ... legally-authorized representative of the operator ...
 ... of the regulated underground storage tank (UST) systems at this facility; AND
- I have personally examined and am familiar with the information included in Sections 1 through 4, and Sections 8, 11 - 12; AND
- Based on my current knowledge and understanding, the submitted information is true, accurate, and complete; AND
- I understand that any person who intentionally or knowingly submits false information on this form is subject to criminal prosecution.

PRINTED NAME OF OWNER/OPERATOR (OR AUTHORIZED REPRESENTATIVE) MT. SADIQ DURRANI TITLE _____

SIGNATURE OF OWNER/OPERATOR (OR AUTHORIZED REPRESENTATIVE) MSD DATE OF SIGNATURE (PLEASE PRINT) 9/20/2010

****FOR ASSISTANCE WITH THIS FORM, PLEASE READ THE INSTRUCTION SHEET****

TCEQ Facility ID No
TCEQ- UST REGISTRATION & SELF-CERTIFICATION FORM 39040

Important: The information in the following sections regarding the UST system(s) at this facility must be properly completed in sufficient detail to support registration. UST owners & operators are encouraged to examine their UST records and/or consult with their UST equipment installers, service technicians, and/or insurance providers to ensure that this information is accurate and complete.

11. TANK IDENTIFICATION/DESCRIPTION

Tank Identification <i>Number each tank compartment at your site consistent with Rule 334.8(c)(5)(C).</i>	1A	2A	3A	
Tank Installation Date (Month/day/year)	1 / 1	1 / 1	1 / 1	1 / 1
Tank Capacity (in U.S. gallons)	6000	6000	6000	
Tank Status (Mark One Status & Indicate Date, if Applicable)				
1-Currently in Use	1- <input checked="" type="checkbox"/>	1- <input checked="" type="checkbox"/>	1- <input type="checkbox"/>	1- <input type="checkbox"/>
2-Temporarily out of service. (date) _____ - Meets TCEQ Definition of Empty? - Yes or No	2- _____ <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	2- _____ <input type="checkbox"/> Yes <input type="checkbox"/> No	2- _____ <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	2- _____ <input type="checkbox"/> Yes <input type="checkbox"/> No
3-Perm. filled in place w/ sand; concrete; etc. (date) _____	3- _____	3- _____	3- _____	3- _____
4-Permanently removed from the ground (date) _____	4- _____	4- _____	4- _____	4- _____
Current/Last Substance Stored (Mark One Substance per compartment)				
1-Gasoline	1- <input checked="" type="checkbox"/>	1- <input checked="" type="checkbox"/>	1- <input type="checkbox"/>	1- <input type="checkbox"/>
2-Diesel	2- <input type="checkbox"/>	2- <input type="checkbox"/>	2- <input type="checkbox"/>	2- <input type="checkbox"/>
3-Kerosene	3- <input type="checkbox"/>	3- <input type="checkbox"/>	3- <input type="checkbox"/>	3- <input type="checkbox"/>
4-Used Oil	4- <input type="checkbox"/>	4- <input type="checkbox"/>	4- <input type="checkbox"/>	4- <input type="checkbox"/>
5-New Oil	5- <input type="checkbox"/>	5- <input type="checkbox"/>	5- <input type="checkbox"/>	5- <input type="checkbox"/>
6-Other Petroleum Substance (specify) _____	6- _____	6- _____	6- _____	6- _____
7a-CERCLA Hazardous Substance (specify) _____	7a- _____	7a- _____	7a- _____	7a- _____
7b-Chemical Abstract Service (CAS) No. _____	7b- # _____	7b- # _____	7b- # _____	7b- # _____
7c-Hazardous Substances Mixture (specify) _____	7c- _____	7c- _____	7c- _____	7c- _____
8-Petrol./Haz. Substances Mixture (specify) _____	8- _____	8- _____	8- _____	8- _____
9-Other (specify) _____	9- _____	9- _____	9- _____	9- _____

12. UST SYSTEM TECHNICAL INFORMATION

Tank & Piping Design (Mark One for Tank & Piping)	Tank		Piping		Tank		Piping		Tank		Piping	
1-Single-Wall	1- <input checked="" type="checkbox"/>	<input type="checkbox"/>	1- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
2-Double-Wall	2- <input type="checkbox"/>	<input type="checkbox"/>	2- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
External Containment (Mark all that apply)												
3-Factory-Built Nonmetallic Jacket	3- <input checked="" type="checkbox"/>	<input type="checkbox"/>	3- <input checked="" type="checkbox"/>	<input type="checkbox"/>	3- <input checked="" type="checkbox"/>	<input type="checkbox"/>	3- <input type="checkbox"/>	<input type="checkbox"/>	3- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4a-Synthetic Tank-Pit/Piping-Trench Liner	4a- <input type="checkbox"/>	<input type="checkbox"/>	4a- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
4b-Tank Vault/Rigid Trench Liner	4b- <input type="checkbox"/>	<input type="checkbox"/>	4b- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
Type of Piping (Mark One)												
5a-Pressurized	5a-N/A	<input checked="" type="checkbox"/>	5a-N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
5b-Suction	5b-N/A	<input type="checkbox"/>	5b-N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
5c-Gravity	5c-N/A	<input type="checkbox"/>	5c-N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
Tank Internal Protection												
6-Internal Tank Lining (Indicate date) _____	6- _____	_____	6- _____	_____	6- _____	_____	6- _____	_____	6- _____	_____	_____	_____
Tank & Piping Materials (Mark all that apply)												
1-Steel	1- <input checked="" type="checkbox"/>	<input type="checkbox"/>	1- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
2-FRP (fiberglass-reinforced plastic)	2- <input type="checkbox"/>	<input checked="" type="checkbox"/>	2- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
3-Composite tank (steel w/external FRP cladding)	3- <input type="checkbox"/>	N/A	3- <input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A						
4-Concrete	4- <input type="checkbox"/>	<input type="checkbox"/>	4- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
5a-Jacketed (steel w/external nonmetallic jacket)	5a- <input type="checkbox"/>	<input type="checkbox"/>	5a- <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
5b-Coated (steel w/external polyurethane cladding)	5b- <input type="checkbox"/>	N/A	5b- <input type="checkbox"/>	N/A	<input type="checkbox"/>	N/A						
5c-Nonmetallic flexible piping	5c-N/A	<input type="checkbox"/>	5c-N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
5d-Other (specify) _____	5d- _____	_____	5d- _____	_____	5d- _____	_____	5d- _____	_____	5d- _____	_____	_____	_____
Piping Connectors & Valves (Mark all that apply)												
6-Shear/Impact Valves (under dispenser)	6-N/A	<input checked="" type="checkbox"/>	6-N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
7-Steel swing-joints (at ends of piping)	7-N/A	<input type="checkbox"/>	7-N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
8-Flexible connectors (at ends of piping)	8-N/A	<input checked="" type="checkbox"/>	8-N/A	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						

TCEQ Facility ID No
TCEQ- UST REGISTRATION & SELF-CERTIFICATION FORM

39040

12. UST SYSTEM TECHNICAL INFORMATION - continued from page 4

Tank Identification (e.g. 1, 2, 3, 4, etc.)	1A		2A		3A	
	Tank	Piping	Tank	Piping	Tank	Piping
Tank/Piping Corrosion Protection (Mark all that apply)						
1-External dielectric coating/laminate/tape/wrap	1- <input type="checkbox"/>	<input type="checkbox"/>	1- <input type="checkbox"/>	<input type="checkbox"/>	1- <input type="checkbox"/>	<input type="checkbox"/>
2a-Listed/certified factory-built cathodic protection	2a- <input checked="" type="checkbox"/>	<input type="checkbox"/>	2a- <input checked="" type="checkbox"/>	<input type="checkbox"/>	2a- <input checked="" type="checkbox"/>	<input type="checkbox"/>
2b-Certified field-installed cathodic protection	2b- <input checked="" type="checkbox"/>	<input type="checkbox"/>	2b- <input checked="" type="checkbox"/>	<input type="checkbox"/>	2b- <input checked="" type="checkbox"/>	<input type="checkbox"/>
3a-Listed composite tank (steel w/FRP external laminate)	3a- <input type="checkbox"/>	N/A	3a- <input type="checkbox"/>	N/A	3a- <input type="checkbox"/>	N/A
3b-Listed coated tank (steel w/external polyurethane laminate)	3b- <input type="checkbox"/>	N/A	3b- <input type="checkbox"/>	N/A	3b- <input type="checkbox"/>	N/A
4a-Listed FRP tank or piping (noncorrodible)	4a- <input type="checkbox"/>	<input checked="" type="checkbox"/>	4a- <input checked="" type="checkbox"/>	<input type="checkbox"/>	4a- <input type="checkbox"/>	<input type="checkbox"/>
4b-Listed nonmetallic flexible piping (noncorrodible)	4b-N/A	<input type="checkbox"/>	4b-N/A	<input type="checkbox"/>	4b-N/A	<input type="checkbox"/>
5a-Listed/certified external nonmetallic jacket	5a- <input type="checkbox"/>	N/A	5a- <input type="checkbox"/>	N/A	5a- <input type="checkbox"/>	N/A
5b-Isolated in open-area (e.g., sump, boot, etc.)	5b- <input type="checkbox"/>	<input type="checkbox"/>	5b- <input type="checkbox"/>	<input type="checkbox"/>	5b- <input type="checkbox"/>	<input type="checkbox"/>
6-Other (specify)	6- <input type="checkbox"/>	<input type="checkbox"/>	6- <input type="checkbox"/>	<input type="checkbox"/>	6- <input type="checkbox"/>	<input type="checkbox"/>
Tank & Piping Release Detection (Mark all that apply)						
1-External vapor/tracer monitoring	1- <input type="checkbox"/>	<input type="checkbox"/>	1- <input type="checkbox"/>	<input type="checkbox"/>	1- <input type="checkbox"/>	<input type="checkbox"/>
2-External groundwater monitoring	2- <input type="checkbox"/>	<input type="checkbox"/>	2- <input type="checkbox"/>	<input type="checkbox"/>	2- <input type="checkbox"/>	<input type="checkbox"/>
3-Monitoring of secondary containment barrier	3- <input type="checkbox"/>	<input type="checkbox"/>	3- <input type="checkbox"/>	<input type="checkbox"/>	3- <input type="checkbox"/>	<input type="checkbox"/>
4-Automatic tank gauge test & inv. control	4- <input checked="" type="checkbox"/>	N/A	4- <input checked="" type="checkbox"/>	N/A	4- <input checked="" type="checkbox"/>	N/A
5-Interstitial monitoring within secondary wall/jacket	5- <input type="checkbox"/>	<input type="checkbox"/>	5- <input type="checkbox"/>	<input type="checkbox"/>	5- <input type="checkbox"/>	<input type="checkbox"/>
6a-Monthly piping tightness test (@ 0.2 gph)	6a-N/A	<input type="checkbox"/>	6a-N/A	<input type="checkbox"/>	6a-N/A	<input type="checkbox"/>
6b-Annual piping tightness test (@ 0.1gph)	6b-N/A	<input type="checkbox"/>	6b-N/A	<input type="checkbox"/>	6b-N/A	<input type="checkbox"/>
6c-Triennial tightness test (for suction/gravity piping)	6c-N/A	<input type="checkbox"/>	6c-N/A	<input type="checkbox"/>	6c-N/A	<input type="checkbox"/>
6d-Auto. line leak detector (3.0gph for pressure piping)	6d-N/A	<input checked="" type="checkbox"/>	6d-N/A	<input checked="" type="checkbox"/>	6d-N/A	<input checked="" type="checkbox"/>
7a-Weekly manual tank gauging (tanks ≤ 1,000 gal)	7a- <input type="checkbox"/>	N/A	7a- <input type="checkbox"/>	N/A	7a- <input type="checkbox"/>	N/A
7b-Monthly tank gauging (for emer. generator tanks)	7b- <input type="checkbox"/>	N/A	7b- <input type="checkbox"/>	N/A	7b- <input type="checkbox"/>	N/A
8-SIR-Statistical Inventory Reconciliation & inv. control	8- <input type="checkbox"/>	<input type="checkbox"/>	8- <input type="checkbox"/>	<input type="checkbox"/>	8- <input type="checkbox"/>	<input type="checkbox"/>
9-Other (specify)	9- <input type="checkbox"/>	<input type="checkbox"/>	9- <input type="checkbox"/>	<input type="checkbox"/>	9- <input type="checkbox"/>	<input type="checkbox"/>
Spill Containment & Overfill Prevention Equipment						
1- Tight-fill fitting	1- <input checked="" type="checkbox"/>	<input type="checkbox"/>	1- <input checked="" type="checkbox"/>	<input type="checkbox"/>	1- <input checked="" type="checkbox"/>	<input type="checkbox"/>
2- Factory-built spill container/bucket/sump	2- <input checked="" type="checkbox"/>	<input type="checkbox"/>	2- <input checked="" type="checkbox"/>	<input type="checkbox"/>	2- <input checked="" type="checkbox"/>	<input type="checkbox"/>
3a-Delivery shut-off valve (set@ ≤95% capacity)	3a- <input checked="" type="checkbox"/>	<input type="checkbox"/>	3a- <input checked="" type="checkbox"/>	<input type="checkbox"/>	3a- <input checked="" type="checkbox"/>	<input type="checkbox"/>
3b-Flow restrictor, e.g., vent ball-float (set@ ≤90% cap.)	3b- <input checked="" type="checkbox"/>	<input type="checkbox"/>	3b- <input checked="" type="checkbox"/>	<input type="checkbox"/>	3b- <input checked="" type="checkbox"/>	<input type="checkbox"/>
3c-Alarm (set@ ≤90%), w/3a or 3b (set@ ≤98% cap.)	3c- <input type="checkbox"/>	<input type="checkbox"/>	3c- <input type="checkbox"/>	<input type="checkbox"/>	3c- <input type="checkbox"/>	<input type="checkbox"/>
4 - N/A - All deliveries to tank are ≤ 25 gal. each	4- <input type="checkbox"/>	<input type="checkbox"/>	4- <input type="checkbox"/>	<input type="checkbox"/>	4- <input type="checkbox"/>	<input type="checkbox"/>
Stage 1/Stage 2 Vapor Recovery (Mark all that apply)						
* See instructions for rule & location exemption information.						
1-Stage I (UST to tanker truck): Installation date:	1- _____	1- _____	1- _____	1- _____	1- _____	1- _____
• Type: 1a-Stage I two-point system	1a- <input type="checkbox"/>	1a- <input type="checkbox"/>	1a- <input type="checkbox"/>	1a- <input type="checkbox"/>	1a- <input type="checkbox"/>	1a- <input type="checkbox"/>
1b-Stage I coaxial system	1b- <input type="checkbox"/>	1b- <input type="checkbox"/>	1b- <input type="checkbox"/>	1b- <input type="checkbox"/>	1b- <input type="checkbox"/>	1b- <input type="checkbox"/>
• Exempt by: 1c-TCEQ Rule*	1c- <input type="checkbox"/>	1c- <input type="checkbox"/>	1c- <input type="checkbox"/>	1c- <input type="checkbox"/>	1c- <input type="checkbox"/>	1c- <input type="checkbox"/>
2-Stage II (vehicle to UST): Installation date:	2- _____	2- _____	2- _____	2- _____	2- _____	2- _____
• Type: 2a-Stage II balance system	2a- <input type="checkbox"/>	2a- <input type="checkbox"/>	2a- <input type="checkbox"/>	2a- <input type="checkbox"/>	2a- <input type="checkbox"/>	2a- <input type="checkbox"/>
2b-Stage II assist system	2b- <input type="checkbox"/>	2b- <input type="checkbox"/>	2b- <input type="checkbox"/>	2b- <input type="checkbox"/>	2b- <input type="checkbox"/>	2b- <input type="checkbox"/>
• Exempt by: 2c-TCEQ Rule*	2c- <input type="checkbox"/>	2c- <input type="checkbox"/>	2c- <input type="checkbox"/>	2c- <input type="checkbox"/>	2c- <input type="checkbox"/>	2c- <input type="checkbox"/>

MAKE A COPY OF FORM FOR YOUR RECORDS

For Self-Certification Annual Renewal, **Sections 1, 2, 3, 4, 7, 8, & 9** must be completed. If there is a change of ownership along with the renewal of the delivery certificate, **Sections 1, 2, 3, 4, 7, 8, 9, 10, & 11** must be completed.

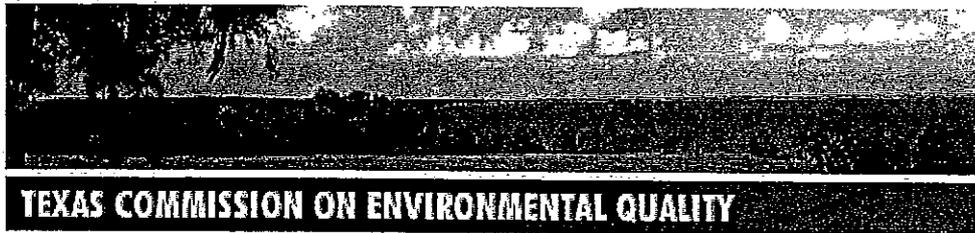
For Registration Purposes, **Sections 1, 2, 3, 4, 10** must be completed and **Sections 6, 8, 11, 12** should be completed only if applicable.

For data verification purposes, please check our web page **PST Registration Database** (www.tceq.state.tx.us/permitting/registration/pst/pst_query.html).

If you have any questions on how to fill out this form or about the PST Registration program, please contact us at 512/239-2160.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512-239-2160.

Attachment "ED-6"



PST Registration Database Query Results

Facility Information	
Facility ID:	39040
Facility name:	MINI MART 102
Address:	2311 25TH AVEN TEXAS CITY TX 77590-
Date registered:	05/08/86
TCEQ region:	12, Houston
County:	Galveston
Facility type:	Retail
Non-attainment area:	Yes
Number of In Use/Removed USTs:	0003
Number of In Use and Out-of-Use ASTs:	0000
Manager/Title:	ALI ZULFIQAR, OWNER
Phone:	281-248-7646
Signature/Title:	DOUG BERRYMAN, R
Date signed:	04/30/86
Owner Effective Begin Date:	03/01/08

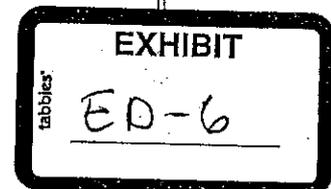
STATE OF TEXAS JUN 20 2011
COUNTY OF TRAVIS

I hereby certify this is a true and correct copy of a Texas Commission on Environmental Quality (TCEQ) document, which is filed in the Records of the Commission Given under my hand and the seal of office.

Billy R. Wilson
Billy R. Wilson, Custodian of Records
Texas Commission on Environmental Quality

Owner Information	
Owner ID:	71326
Name:	ZULFIQAR ALI
Address:	2311 25TH AVE N TEXAS CITY TX 77590-
Owner Type:	Individual
Contact:	ALI ZULFIQAR
Phone:	281-248-7646
Mail Undeliverable?:	No
Bankruptcy:	No
Total Number of Registered Facilities:	0001

Operator Information	
Operator ID:	169188
Name:	ZQS CORPORATION INC
Address:	2311 25TH AVE N TEXAS CITY TX 77590-
Operator Phone:	
Contact Name/Title:	
Contact Phone:	



000113

Operator Type:	Corporation
Effective Date:	03/01/08

Self-Certification Information

Signature/Title:	ALI ZULFIQAR, OWNER
Signature Type:	Owner
Date:	07/24/10
Registration:	Yes
Fees:	Yes
Financial Assurance:	Yes
Technical Standards:	Yes
UST Delivery Certificate Expires:	06/2011

Our records indicate that a UST Delivery Certificate with an expiration date of 06/2011 has been or will be mailed (within three business days) to you. If you have not received your Delivery Certificate please contact the PST Registration Team at 512-239-2160 for assistance.

UST Compartment Self-certification Information

Tank ID/Compartment Letter:	1 A	Self-certification Date:	07/24/10
Tank ID/Compartment Letter:	1 A	Self-certification Date:	05/05/08
Tank ID/Compartment Letter:	1 A	Self-certification Date:	04/02/04
Tank ID/Compartment Letter:	1 A	Self-certification Date:	12/26/01
Tank ID/Compartment Letter:	1 A	Self-certification Date:	04/05/01
Tank ID/Compartment Letter:	2 A	Self-certification Date:	07/24/10
Tank ID/Compartment Letter:	2 A	Self-certification Date:	05/05/08
Tank ID/Compartment Letter:	2 A	Self-certification Date:	04/02/04
Tank ID/Compartment Letter:	2 A	Self-certification Date:	12/26/01
Tank ID/Compartment Letter:	2 A	Self-certification Date:	04/05/01
Tank ID/Compartment Letter:	3 A	Self-certification Date:	05/05/08
Tank ID/Compartment Letter:	3 A	Self-certification Date:	04/02/04
Tank ID/Compartment Letter:	3 A	Self-certification Date:	12/26/01
Tank ID/Compartment Letter:	3 A	Self-certification Date:	04/05/01

Underground Storage Tanks

Tank ID: 1	In Use //
Status/Status Date:	01/01/1974 / 05/08/1986
Installed/Registered:	

000114

111000

Capacity/Empty:	0006000 / No Tank
Material:	Steel
Other Material:	
Design and External Containment	
I:	Factory-built nonmetallic jacket
II:	Single wall
III:	
IV:	
Internal Protection Date:	00/00/0000
Corrosion Protection	
I:	Cathodic protection - Field installation
II:	
III:	
Other:	
Variance :	No variance(2) Piping
Type of Piping:	Pressurized
Piping Material:	Fiberglass-reinforced plastic (FRP)
Other Piping Material:	
Design and External Containment	
I:	Single wall
II:	
III:	
IV:	
Connectors and Valves	
I:	Flexible connectors (at ends of piping)
II:	Sheer/Impact valves (under dispenser)
III:	
Corrosion Protection	
I:	FRP tank or piping (noncorrodible)
II:	
III:	
Other:	
Variance:	No variance Vapor Recovery
Stage 1 Equipment Status:	Two-point system or coaxial system type
Installed:	03/25/1999
Stage 2 Equipment Status:	Balance system or assist system type
Installed:	03/25/1999
	Installer Information
Installer Company:	
Contractor Registration Number:	
Installer Name:	
Installer License #:	
Tank Tested:	No Compartments
Compartment Letter:	A
Capacity:	0000000
Substance Stored:	Gasoline
Other Substance Stored:	

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Tank Release Detection

I: Automatic tank gauge test and inventory control
 II:
 III:
 Other:
 Variance: No variance

Pipe Release Detection

I: Automatic line leak detector (3.0 gph for pressure piping)
 II: Monthly piping tightness testing (@ 0.2 gph)
 III:
 Other:
 Variance: No variance

Spill and Overfill Prevention

I: Auto flow restrictor valve
 II: Factory-built spill container/bucket/sump
 III: Tight-fill fitting
 Variance: No variance

Tank ID: 2

Status/Status Date: In Use / /
 Installed/Registered: 01/01/1974 / 05/08/1986
 Capacity/Empty: 0006000 / No
 Tank

Material: Steel
 Other Material:

Design and External Containment

I: Factory-built nonmetallic jacket
 II: Single wall
 III:
 IV:

Internal Protection Date: 00/00/0000

Corrosion Protection

I: Cathodic protection - Field installation
 II:
 III:
 Other:
 Variance : No variance(2)
 Piping

Type of Piping: Pressurized
 Piping Material: Fiberglass-reinforced plastic (FRP)
 Other Piping Material:

Design and External Containment

I: Single wall
 II:
 III:
 IV:

Connectors and Valves

I: Flexible connectors (at ends of piping)
 II: Sheer/Impact valves (under dispenser)
 III:

7 100

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Corrosion Protection

I: FRP tank or piping (noncorrodible)
 II:
 III:
 Other:
 Variance: No variance
 Vapor Recovery
 Stage 1 Equipment Status: Two-point system or coaxial system type
 Installed: 03/25/1999
 Stage 2 Equipment Status: Balance system or assist system type
 Installed: 03/25/1999
 Installer Information

Installer Company:
 Contractor Registration Number:
 Installer Name:
 Installer License #:

Tank Tested: No
 Compartments

Compartment Letter: A
 Capacity: 0000000
 Substance Stored: Gasoline

Tank Release Detection

I: Automatic tank gauge test and inventory control
 II:
 III:
 Other:
 Variance: No variance

Pipe Release Detection

I: Automatic line leak detector (3.0 gph for pressure piping)
 II: Annual Tightness test (@ 0.1 gph)
 III:
 Other:
 Variance: No variance

Spill and Overfill Prevention

I: Auto flow restrictor valve
 II: Factory-built spill container/bucket/sump
 III: Tight-fill fitting
 Variance: No variance

Tank ID: 3
 Status/Status Date: Temporarily out of use / 07/01/2009
 Installed/Registered: 01/01/1985 / 05/08/1986
 Capacity/Empty: 0006000 / Yes

 Tank
 Material: Steel

Design and External Containment

I: Factory-built nonmetallic jacket
 II: Single wall

811000

000117

I:	Automatic line leak detector (3.0 gph for pressure piping)
II:	Annual Tightness test (@ 0.1 gph)
III:	
Other:	
Variance:	No variance
Spill and Overfill Prevention	
I:	Auto flow restrictor valve
II:	Factory-built spill container/bucket/sump
III:	Tight-fill fitting
Variance:	No variance

[Contact us](#) if you have any questions.

Last Modified: July 2, 2009

Attachment "ED-7"

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

5-5.

Bill of Sale

Date: February 12, 2008

Seller: Binh Tran

Seller's Mailing Address:

13906 Winter Harvest Court
Houston, Harris County, Texas 77059-2811

Buyer: Ali Zulfiqar

Buyer's Mailing Address:

220 North Point Drive
Number 808
Houston, Harris County, Texas 77060

STATE OF TEXAS JUN 20 2011
COUNTY OF TRAVIS

I hereby certify this is a true and correct copy of a Texas Commission on Environmental Quality (TCEQ) document, which is filed in the Records of the Commission Given under my hand and the seal of office.

Billy R. Wilson, Custodian of Records
Texas Commission on Environmental Quality

Consideration:

1. \$10,000.00 for the business,
2. A lease for the property where the business is located.

Transferred Properties:

1. The business with the address of 2311 25th Avenue North, Texas City, Galveston County, Texas 77590
2. The fixtures and merchandise located at the business.
3. The gasoline pumps and tanks located at the business.

Reservations from Transfer:

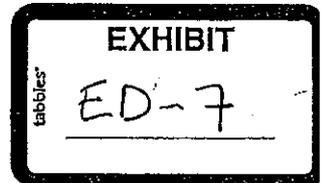
The personal property of the current tenant of the business premises

Conditions of Sale

1. Seller is responsible that the gasoline pumps are in a working condition at the

000100

000121



time of sale.

2. Seller will purchase the first truck of gasoline for the pumps. Buyer will buy this gasoline from Seller at the time of sale for the price Seller paid for the gasoline.

3. Seller will lease the business premises to buyer for 10 years for \$2,000/- per month in a separate lease.

4. Buyer will purchase at his expense a liability insurance policy for damages that may occur after the sale in the amount of \$1,000,000.00, and maintain this policy for the duration of the lease.

5. Buyer will have the right to buy the property upon which the business is located for a period of 3 years from the date this Bill of Sale is signed for the price of \$400,000.00. After this 3 year's period is expired, the buyer will have the first option to buy the property.

6. Buyer will have a right to sublease the property during term of lease.

Exceptions to Transfer and Warranty:

Seller, for the Consideration and subject to the Reservations from Transfer and the Exceptions to Transfer and Warranty, sells, transfers, and delivers the Transferred Properties to Buyer, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Buyer and Buyer's heirs, successors, and assigns forever. Seller binds Seller and Seller's heirs and successors to warrant and forever defend all and singular the Transferred Properties to Buyer and Buyer's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, through, or under Seller but not otherwise, except as to the Reservations from Transfer and the Exceptions to Transfer and Warranty.

WITH THE EXCEPTION OF THE WARRANTIES OF TITLE, INCLUDING THE WARRANTY THAT NO LIENS EXIST ON THE TRANSFERRED PROPERTIES EXCEPT AS RECITED, SELLER HAS MADE NO AFFIRMATION OF FACT OR PROMISE RELATING TO THE TRANSFERRED PROPERTIES THAT HAS BECOME ANY BASIS OF THIS BARGAIN, AND FURTHER, SELLER HAS MADE NO AFFIRMATION OF FACT OR PROMISE RELATING TO THE TRANSFERRED PROPERTIES THAT WOULD CONFORM TO ANY SUCH AFFIRMATION OR PROMISE. SELLER DISCLAIMS ANY WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE WHATEVER WITH RESPECT TO THE TRANSFERRED PROPERTIES. THE TRANSFERRED PROPERTIES ARE SOLD ON AN "AS IS" BASIS.

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When the context requires, singular nouns and pronouns include the plural.

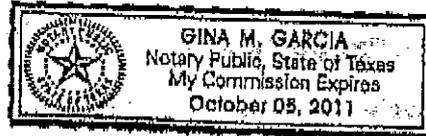
Binh Tran
Binh Tran, Seller

State of Texas §
County of Galveston §

This document was signed before me, the undersigned authority, by Binh Tran on February 12th 2008

Gina M. Garcia
Notary Public, State of Texas

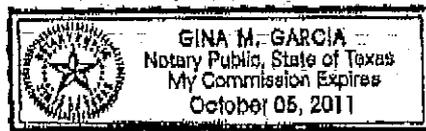
Ali Zulfiqar
Ali Zulfiqar, Buyer



State of Texas §
County of Galveston §

This document was signed before me, the undersigned authority, by Ali Zulfiqar on February 12th 2008

Gina M. Garcia
Notary Public, State of Texas



AFTER RECORDING RETURN TO:

[location where document should be returned]

Retail Lease

Basic Terms

Date: March 1, 2008

Landlord: Binh Tran

Landlord's Address:

Binh Tran
13906 Winter Harvest Court
Houston, Texas 77059-2811

Tenant: Ali Zulfiqar

Tenant's Address:

Ali Zulfiqar
619 C Berringer Lane
Webster, Texas 77598

Tenant's Trade Name: Z.Q.S. Coporation, Inc.

Guarantors: Ali Zulfiqar

Guarantor's Address:

Ali Zulfiqar
619 C Berringer Lane
Webster, Texas 77598

Premises

Approximate square feet: 2080 square feet

Name of Shopping Center: _____

Street address/suite: 2311 25th Avenue North

City, state, zip: Texas City, Teas 77590

Term (months): 120

Commencement Date: March 1, 2008

Termination Date: March 1, 2018

Base Rent (monthly): \$2,000.00 minimum, and Tenant will also

pay his pro rata increase of the property taxes and insurance premiums on Landlord's policy that increase over the amount paid and rate paid in the year 2007.

Security Deposit: \$0.00, but tenant will pay last month's rent in the amount of \$2,000.00 no later than March 1, 2008.

Permitted Use: lawful retail use only

Tenant's Insurance: As required by Insurance Addendum

Tenant's Rebuilding Obligations: If the Premises are damaged by fire or other elements, Tenant will be responsible for repairing or rebuilding the following leasehold improvements: All partitions, walls, ceiling systems, wiring, light fixtures, floors, finishes, wall coverings, floor coverings, signs, doors, hardware, windows, window coverings, plumbing, heating, ventilating, and air-conditioning equipment, and other improvements in the Premises, whether installed by Landlord or Tenant.

Definitions

"CAM Charge" means the reasonable cost of ownership, operation, and maintenance of the Common Areas.

"Common Areas" means all facilities and areas of the Shopping Center that are intended and designated by Landlord from time to time for the common, general, and nonexclusive use of all tenants of the Shopping Center, including parking lots. Landlord has the exclusive control over and right to manage the Common Areas.

"Essential Services" means utility connections reasonably necessary for occupancy of the Premises for the Permitted Use.

"Gross Sales" means the entire amount of the sales price, whether for cash or otherwise, of all sales of merchandise (including gift and merchandise certificates), services, and all other receipts of all business conducted in or from the Premises. Each sale on installment or credit will be treated as a sale for the full price in the month during which the sale was made, irrespective of when Tenant receives payment from its customer. Gross Sales, however, will not include any sums collected and paid out for any sales or excise tax.

"Injury" means (a) harm to or impairment or loss of property or its use, (b) harm to or death of a person, or (c) "personal and advertising injury" as defined in the form of liability insurance Tenant is required to maintain.

"Landlord" means Landlord and its agents, employees, invitees, licensees, or visitors.

"Lienholder" means the holder of a deed of trust covering the Premises.

"Rent" means Base Rent plus any other amounts of money payable by Tenant to Landlord.

"Taxes and Insurance" means all ad valorem taxes and all insurance costs incurred by Landlord with respect to the Shopping Center.

"Tenant" means Tenant and its agents, contractors, employees, invitees, licensees, or visitors.

Clauses and Covenants

A. Tenant agrees to -

1. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.

2. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for the Permitted Use.

3. Obey (a) all applicable laws relating to the use, condition, and occupancy of the Premises and Shopping Center; (b) any requirements imposed by utility companies serving or insurance companies covering the Premises or Shopping Center; and (c) any rules and regulations of the Shopping Center adopted by Landlord.

4. Pay monthly, in advance, on the first day of the month, the Base Rent to Landlord at Landlord's Address.

5. Maintain the gasoline pumps and equipment, including all storage tanks for the gasoline storage, after Landlord brings the same equipment in working order and to legal standards for such equipment.

6. Maintain the other non-gasoline related equipment located upon the leased premises.

7. Pay a late charge of 5 percent of any Rent not received by Landlord by the tenth day after it is due.

8. Obtain and pay for all utility services used by Tenant and not provided by Landlord.

9. Pay Tenant's Pro Rata Share of any utility services provided by Landlord.

10. Allow Landlord to enter the Premises to perform Landlord's obligations, inspect the Premises, and show the Premises to prospective purchasers or tenants.

11. Repair, replace, and maintain any part of the Premises that Landlord is not obligated to repair, replace, or maintain, normal wear excepted.

12. Keep the sidewalks, service ways, and loading areas adjacent to the Premises clean and unobstructed.

13. Submit in writing to Landlord any request for repairs, replacement, and maintenance that are the obligations of Landlord.

14. (a) Continuously and in good faith conduct on the entire Premises the type of business for which the Premises are leased in an efficient and reputable manner so as to produce the maximum amount of Gross Sales and (b) except during reasonable periods for repairing, cleaning, and decorating, keep the Premises open to the public for business during Operating Hours.

15. If requested, deliver to Landlord a financing statement perfecting the security interest created by this lease.

16. Vacate the Premises on the last day of the Term.

17. On request, execute an estoppel certificate that states the Commencement Date and Termination Date of the lease, identifies any amendments to the lease, describes any rights to extend the Term or purchase rights, lists defaults by Landlord, and provides any other information reasonably requested.

18. INDEMNIFY, DEFEND, AND HOLD LANDLORD AND LIENHOLDER HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING IN ANY PORTION OF THE PREMISES. THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF TENANT'S INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (c) WILL SURVIVE THE END OF THE TERM, AND (d) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD.

19. Purchase the gasoline from Landlord located in the gasoline storage tanks no later than March 1, 2008.

B. Tenant agrees not to -

1. Use the Premises for any purpose other than the Permitted Use.

2. Create a nuisance.
3. Interfere with any other tenant's normal business operations or Landlord's management of the Shopping Center.
4. Permit any waste.
5. Use the Premises in any way that would increase insurance premiums, or void insurance on the Shopping Center.
6. Change Landlord's lock system.
7. Alter the Premises.
8. Allow a lien to be placed on the Premises.
9. Assign this lease or sublease any portion of the Premises without Landlord's written consent.
10. Use the roof of the Shopping Center.
11. Place any signs on the Premises without Landlord's written consent.

C. Landlord agrees to -

1. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.
2. Obey all applicable laws with respect to Landlord's operation of the Shopping Center.
3. Provide the Essential Services.
4. Repair, replace, and maintain the (a) roof, (b) foundation, (c) Common Areas, and (d) structural soundness of the exterior walls, excluding windows, store fronts, and doors.
5. Return the Security Deposit to Tenant, less itemized deductions, if any, within sixty days after the last day of the Term.
6. INDEMNIFY, DEFEND, AND HOLD TENANT HARMLESS FROM ANY INJURY AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS, OCCURRING IN ANY PORTION OF THE COMMON AREAS. THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF LANDLORD'S INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, © WILL SURVIVE

THE END OF THE TERM, AND (d) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF TENANT BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF TENANT.

7. Bring the gasoline-related equipment to legal standards.

D. Landlord agrees not to -

1. Interfere with Tenant's possession of the Premises as long as Tenant is not in default.

2. Unreasonably withhold consent to a proposed assignment or sublease.

E. Landlord and Tenant agree to the following:

1. *Alterations.* Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at the end of the Term and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.

2. *Abatement.* Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.

3. *Insurance.* Tenant and Landlord will maintain the respective insurance coverages described in the attached Insurance Addendum.

4. *Release of Claims/Subrogation.* LANDLORD AND TENANT RELEASE EACH OTHER AND LIENHOLDER FROM ALL CLAIMS OR LIABILITIES FOR DAMAGE TO THE PREMISES OR SHOPPING CENTER, DAMAGE TO OR LOSS OF PERSONAL PROPERTY WITHIN THE SHOPPING CENTER, AND LOSS OF BUSINESS OR REVENUES THAT ARE COVERED BY THE RELEASING PARTY'S PROPERTY INSURANCE OR THAT WOULD HAVE BEEN COVERED BY THE REQUIRED INSURANCE IF THE PARTY FAILS TO MAINTAIN THE PROPERTY COVERAGES REQUIRED BY THIS LEASE. THE PARTY INCURRING THE DAMAGE OR LOSS WILL BE RESPONSIBLE FOR ANY DEDUCTIBLE OR SELF-INSURED RETENTION UNDER ITS PROPERTY INSURANCE. LANDLORD AND TENANT WILL NOTIFY THE ISSUING PROPERTY INSURANCE COMPANIES OF THE RELEASE SET FORTH IN THIS PARAGRAPH AND WILL HAVE THE PROPERTY INSURANCE POLICIES ENDORSED, IF NECESSARY, TO PREVENT INVALIDATION OF COVERAGE. THIS RELEASE WILL NOT APPLY IF IT INVALIDATES THE PROPERTY INSURANCE COVERAGE OF THE RELEASING PARTY. THE RELEASE IN THIS PARAGRAPH WILL APPLY EVEN IF THE DAMAGE OR LOSS IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF THE RELEASED PARTY BUT WILL NOT APPLY TO THE EXTENT THE DAMAGE OR LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE RELEASED PARTY.

5. *Casualty/Total or Partial Destruction*

a. If the Premises are damaged by casualty and can be restored within ninety days, Landlord will, at its expense, restore the roof, foundation, Common Areas, and structural soundness of the exterior walls of the Premises and any leasehold improvements within the Premises that are not within Tenant's Rebuilding Obligations to substantially the same condition that existed before the casualty and Tenant will, at its expense, replace any of its damaged furniture, fixtures, and personal property and restore any leasehold improvements that are within Tenant's Rebuilding Obligations. If Landlord fails to complete the portion of the restoration for which Landlord is responsible within ninety days from the date of written notification by Tenant to Landlord of the casualty, Tenant may terminate this lease by written notice delivered to Landlord before Landlord completes Landlord's restoration obligations.

b. If Landlord cannot complete the portion of the restoration for which Landlord is responsible within ninety days, Landlord has an option to restore the Premises. If Landlord chooses not to restore, this lease will terminate. If Landlord chooses to restore, Landlord will notify Tenant in writing of the estimated time to restore and give Tenant an option to terminate this lease by notifying Landlord in writing within ten days from receipt of Landlord's estimate. If Tenant does not notify Landlord timely of Tenant's election to terminate this lease, the lease will continue and Landlord will restore the Premises as provided in a. above.

c. To the extent the Premises are untenable after the casualty, the Rent will be adjusted as may be fair and reasonable.

6. *Condemnation/Substantial or Partial Taking*

a. If the Premises cannot be used for the purposes contemplated by this lease because of condemnation or purchase in lieu of condemnation, this lease will terminate.

b. Whether or not any portion of the Premises is taken by condemnation or purchase in lieu of condemnation, Landlord and Tenant may elect to terminate this lease if 50 percent or more of the Common Area is taken.

c. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, Landlord will, at Landlord's expense, restore the Premises, and

the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

d. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

7. *Uniform Commercial Code.* Tenant grants Landlord a security interest in Tenant's personal property now or subsequently located on the Premises. This lease is a security agreement under the Uniform Commercial Code.

8. *Default by Landlord/Events.* Defaults by Landlord are failing to comply with any provision of this lease within thirty days after written notice and failing to provide Essential Services to Tenant within ten days after written notice.

9. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and, if Landlord does not provide an Essential Service for thirty days after default, terminate this lease.

10. *Default by Tenant/Events.* Defaults by Tenant are (a) failing to pay timely Rent, (b) abandoning or vacating a substantial portion of the Premises, and (c) failing to comply within ten days after written notice with any provision of this lease other than the defaults set forth in (a) and (b) above.

11. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the Premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be occupying the Premises, until the default is cured, without being liable for damages.

12. *Default/Waiver/Mitigation.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by applicable law. Landlord and Tenant have a duty to mitigate damages.

13. *Security Deposit.* If Tenant defaults, Landlord may use the Security Deposit to pay arrears of Rent, to repair any damage or injury, or to pay any expense or liability incurred by Landlord as a result of the default.

14. *Holdover.* If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

15. *Alternative Dispute Resolution.* Landlord and Tenant agree to mediate in good faith before filing a suit for damages.

16. *Attorney's Fees.* If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.

17. *Venue.* Exclusive venue is in the county in which the Premises are located.

18. *Entire Agreement.* This lease is the entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease or to any expressly mentioned exhibits and riders not incorporated in writing in this lease.

19. *Amendment of Lease.* This lease may be amended only by an instrument in writing signed by Landlord and Tenant.

20. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

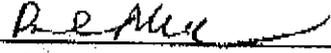
21. *Notices.* Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

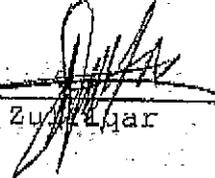
22. *Use of Common Areas.* Tenant will have the nonexclusive right to use the Common Areas subject to such reasonable rules and regulations that Landlord may prescribe.

23. *Merchants' Association.* If Landlord organizes a merchants' association, Tenant must join and maintain membership and comply with its rules.

24. *Abandoned Property.* Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the

Term.


Binh Tran


Ali Zuhair

Insurance Addendum to Lease

Lease

Date: March 1, 2008

Landlord: Binh Tran

Tenant: Ali Zulfiqar

This insurance addendum is part of the lease.

A. Tenant agrees to -

1. Maintain the property and liability insurance policies required below and such other insurance coverages and/or higher policy limits as may be required by Lienholder during the Term and any period before or after the Term when Tenant is present on the Premises:

Type of Insurance or Endorsement Minimum Policy or Endorsement Limit

General Liability Insurance Policies Required of Tenant:

Commercial general liability Per occurrence: \$1,000,000.00
(occurrence basis) Aggregate: \$1,000,000.00

Required Endorsement to Tenant's General Liability or Business Owner's Policy:

Designated location(s) \$1,000,000.00
general
aggregate limit

Property Insurance Policy Required of Tenant:

Causes of loss -- 100 percent of replacement cost
special form of (a) all items included in the definition of Tenant's Rebuilding Obligations and (b) all of Tenant's furniture, fixtures, equipment, and other business personal property located in the Premises.

2. Comply with the following additional insurance requirements:

a. The commercial general liability (or business

owner's property policy) must be endorsed to name Landlord and Lienholder as "additional insureds" and must not be endorsed to exclude the sole negligence of Landlord or Lienholder from the definition of "insured contract."

b. Additional insured endorsements must not exclude coverage for the sole or contributory ordinary negligence of Landlord or Lienholder.

c. Property insurance policies must contain waivers of subrogation of claims against Landlord and Lienholder.

d. Certificates of insurance and copies of any additional insured and waiver of subrogation endorsements must be delivered by Tenant to Landlord before entering the Premises and thereafter at least ten days before the expiration of the policies.

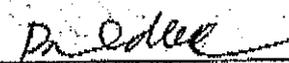
3. Obtain the approval of Landlord and Lienholder with respect to the following: the forms of Tenant's insurance policies, endorsements and certificates, and other evidence of Tenant's Insurance; the amounts of any deductibles or self-insured retentions amounts under Tenant's Insurance; and the creditworthiness and ratings of the insurance companies issuing Tenant's Insurance.

4. If the Landlord's insurance premium increases over the 2007 rate, then Tenant will pay the increase of this premium based upon his pro-rata increase per square foot that the Tenant has leased.

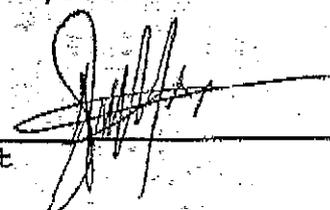
B. Landlord agrees to maintain the liability insurance policy required below during the Term:

Type of Insurance	Minimum Policy Limit
Commercial general liability (occurrence basis)	Per occurrence: \$1,000,000.00 Aggregate: \$1,000,000.00

Note: Tenant will provide proof of sufficient insurance to satisfy usual and customary insurance to cover the gasoline equipment and storage tanks in the amount of \$1,000,000.00 for the term of the lease.



Landlord



Tenant



Texas Commission on Environmental Quality
 Notice of Storage Tank Registration
 (Non-Transferable)

Date of Issuance
 7 JUL 2010
 TCEQ Commission
 W. P. McCoy

This notice certifies that the storage tanks named and located as indicated herein are duly registered with the Texas Commission on Environmental Quality. See also for owners and operators responsibilities.

TANK ID NUMBER: 71426
 FACILITY NUMBER: 26940
 MINI PART 602
 2414 25TH AVE N
 TEXAS CITY, TX 77590
 NUMBER OF USIS: 0083
 NUMBER OF ASIS: 0001



Texas Commission on Environmental Quality
 Petroleum Storage Tank Program
 Delivery Certificate
 (Non-Transferable)

This hereby certifies that the underground storage tanks (USTs) at the facility identified herein have been self-certified as compliant with all technical and administrative standards for fuel delivery purposes. This certificate verifies self certification only, and does not certify that the listed USTs are in compliance with TCEQ's Technical and Administrative requirements.

Owner/Operator #: 071326
 ZULFIQAR ALI
 2314 25TH AVE N
 TEXAS CITY, TX 77590

Facility #: 0039040
 MINI PART 402
 2314 25TH AVE N
 TEXAS CITY, TX 77590

Expires Last Day of:
 June 2011
 TCEQ Permit #: 1-007029

For The
 County of
 M. P. McCoy

Self-Certified UST's 1.2

931000

000132

CERTIFICATE OF INSURANCE - TEXAS

NAME See Schedule of Facilities Endorsement (E038)

ADDRESS: See Schedule of Facilities Endorsement (E038)

POLICY NUMBER. PP3641170

ENDORSEMENT (if applicable):

PERIOD OF COVERAGE 08/16/2010 to 08/16/2011

NAME OF INSURER Colony Insurance Company

ADDRESS OF INSURER 8720 Stony Point Parkway, Suite 300
Richmond, Virginia 23235
Tel: (800) 577-8614

NAME OF INSURED: Mini Mart 102
Ali Zulfiqar, dba

ADDRESS OF INSURED: 2311 25th Ave
Texas City, TX 77590

CERTIFICATION:

1. Colony Insurance Company, the "Insurer", as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

See Schedule of Facilities Endorsement (E038)

For taking corrective action and compensating third parties for "bodily injury" and "property damage" caused by either sudden accidental releases or non-sudden accidental releases or accidental releases, in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy arising from operating the Underground Storage Tank(s) identified above.

The Limits of Liability are \$1,000,000 Each Occurrence and \$1,000,000 Annual Aggregate Policy Limit, exclusive of legal defense costs. This coverage is provided under PP3641170. The effective date is 08/16/2010.

2. The Insurer further certifies the following with respect to the insurance described in paragraph 1:
- a. Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy to which this certificate applies.
 - b. The Insurer is liable for the payment of amounts within any deductible applicable to the policy, to the provider of corrective action or a damaged third-party, with a right of

1051 CERT TX1 0809

281000

000137

Attachment "ED-8"



Galveston Central Appraisal District
 600 Gulf Freeway Suite 113, Texas City, TX 77591, (866) 277-4725
 Data on this Web site represents PRELIMINARY 2011 Information



- Home
- General Information
- News
- FAQ
- Searches

- History
- GIS Map
- Datasheet
- Protest

Property Detail Sheet (P240940)

- Property ID Search
- Account Search
- Owner Search
- Address Search

Owner Information

Owner ID: O0032314
 Owner Name: ZQS CORP INC
 Owner Address: 2311 25TH AVE N
 TEXAS CITY, TX 77590
 Property Address: 2311 25TH AVE N
 TEXAS CITY, TX 77590

Property Data

- Detail Sheet
- Datasheet

Parcel Information

Legal Description: PERSONAL PROPERTY FURNITURE FIXTURES EQUIPMENT
 INVENTORY IN TEXAS CITY TX TCISD 2100 SF

Neighborhood: ()
 Acreage:

Cross Reference: 8600-0425-4378-020
 Undivided Interest: 100%

Exemption Codes:

Entity Codes: GGA (Galveston County)
 J05 (Mainland College)
 S18 (Texas City Isd)
 C31 (Texas City)
 RFL (Co Road & Flood)

Other

- Taxing Units
- Neighborhoods
- Abstracts
- Subdivisions
- Online Protest Info
- Online Protest Login
- Tax Code
- Calendar
- Property Codes
- County Tax Rates
- PROTEST VIDEO
- Forms
- GIS Map Viewer
- County Tax Office
- GIS Shape Files
- PDF Map Index
- 3D Aerial Photos
- Links

Deed Type:
 Deed Book:
 Deed Page:
 Map Page:

Values Breakdown

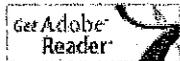
2011 Preliminary Value

Land HS:	\$0 +
Land NHS:	\$0 +
Improvement HS:	\$0 +
Improvement NHS:	\$39,000 +
Ag Market:	\$0
Ag Use:	\$0 +
Timber Market:	\$0
Timber Use:	\$0 +
Assessed:	\$39,000 =

STATE OF TEXAS JUN 20 2011
 COUNTY OF TRAVIS

I hereby certify this is a true and correct copy of a
 Texas Commission on Environmental Quality (TCEQ)
 document, which is filed in the Records of the Commission
 Given under my hand and the seal of office.

Billy R. Wilson
 Billy R. Wilson, Custodian of Records
 Texas Commission on Environmental Quality



* Adobe Acrobat Reader 5.0 (minimum) is required to view pdf documents.
 Acrobat Reader is a free program available [here](#).

- Website Feedback Form
- 2011 Preliminary Roll

000141
 1000

Attachment "ED-11"

Texas Commission on Environmental Quality Investigation Report

TRAN, BINH
CN601378953

MINI MART 102
RN102714474

Investigation # 828813
Investigator: LISA MERRITT

Incident #

RECEIVED

Site Classification

UNDERGROUND STORAGE TANK -
REGISTRATION

AUG 02 2010
TCEQ
CENTRAL FILE ROOM

Conducted: 06/16/2010 -- 06/16/2010

NAIC Code: 447110

SIC Code: 5541

Program(s): PETROLEUM STORAGE
TANK REGISTRATION

Investigation Type: Compliance Investigation

Location:

Additional ID(s): 39040

Address: 2311 25TH AVE N;
TEXAS CITY, TX 77590

Activity Type: REGION 12 - HOUSTON
PSTCEIMOD - Modified CEI

Principal(s):

Role	Name
RESPONDENT	BINH TRAN

Contact(s):

Role	Title	Name	Phone
Regulated Entity Contact		MR ALIE M ZULFIQAR	Work (281) 248-7646
Regulated Entity Mail Contact	OWNER	MR BINH TRAN	Work (281) 248-7646

Other Staff Member(s):

Role	Name
QA Reviewer	VERNON CRANDLE
Supervisor	TODD THOMPSON

Associated Check List

Checklist Name	Unit Name
PST EPA SOC	39040
PST GENERIC OTHER VIOLATIONS	39040
PST MODIFIED COMPLIANCE EVALUATION INVESTIGATION (update 01/27/2009)	39040

Investigation Comments:

Re: Petroleum Storage Tank Modified Compliance Evaluation Investigation at:
Mini Mart 102, 2311 25th Avenue, Texas City (Galveston County), Texas
Facility ID No.: 0039040

INTRODUCTION:

On June 16, 2010, Ms. Lisa E. Merritt of the Texas Commission on Environmental Quality (TCEQ) Houston Region Office conducted an investigation of the above-referenced facility to evaluate compliance with applicable laws and regulations pertaining to Petroleum Storage Tank (PST)

STATE OF TEXAS
COUNTY OF TRAVIS JUN 20 2010

I hereby certify this is a true and correct copy of a Texas Commission on Environmental Quality (TCEQ) document, which is filed in the Records of the Commission Given under my hand and the seal of office.

Billy R. Wilson, Custodian of Records
Texas Commission on Environmental Quality

EXHIBIT
ED-11

000213

management.

A Petroleum Storage Tank Follow-Up Investigation was scheduled to be conducted to evaluate outstanding violations noted during the investigation conducted January 12, 2010. At the time of the January 12, 2010, investigation, the facility was closed and not dispensing fuel. During the follow-up investigation conducted June 16, 2010, the facility was open, dispensing fuel, and did not have a current, valid delivery certificate. Therefore, a Petroleum Storage Tank Modified Compliance Evaluation Investigation was conducted:

Mini Mart 102 owns and manages the property and underground storage tanks. Mr. Binh Tran (owner) and Mr. Al Zulfiqar (operator) are the facility contacts (attachment 1).

GENERAL FACILITY AND PROCESS INFORMATION:

This site is a convenience store with retail sales of gasoline fuel throughput of approximately 8,000 gallons per month per the operator, Mr. Zulfiqar. There are three (3) 6,000 gallon steel underground storage tanks (USTs) installed at the facility.

BACKGROUND:

A Petroleum Storage Tank Modified Compliance Evaluation Investigation was conducted on January 12, 2010. Violations 30 TAC §334.10(b)(1)(A), 30 TAC §334.7(d)(3), 30 TAC §334.54(d)(2), and 30 TAC §334.54(b)(2) were cited. As of June 16, 2010, no documentation has been received to resolve violations: 30 TAC §334.10(b)(1)(A), 30 TAC §334.7(d)(3), 30 TAC §334.54(d)(2), and 30 TAC §334.54(b)(2).

At the time of the investigation, documentation available for review consisted of the monthly tank leak tests. Documentation of financial assurance (insurance), line and leak detector test results, cathodic protection three year testing, daily inventory and monthly reconciliation, current, valid delivery certificate, gasoline delivery receipts, and type of overfill were not available for review. Spill prevention equipment was installed. There was no flapper type overfill prevention equipment installed; unable to determine if ball float valves were installed. The facility is equipped with a Veeder Root TLS 300 automatic tank gauge (ATG) as the form of release detection. Monthly tank leak tests reviewed on-site documented that the regular and plus unleaded tanks had passing test results; the super unleaded tank results show "unavailable". Mr. Zulfiqar stated that the super unleaded tank is not in service since the facility is not selling super unleaded fuel. Unable to determine if the super unleaded tank is empty. The super unleaded tank was not secured to prevent access. Mr. Zulfiqar also stated that the store re-opened in June of 2009, and began dispensing gasoline March, 2010. Mr. Zulfiqar stated that according to his consultant, Mr. Chris Miller of City Survey, the facility has a temporary delivery certificate, but the certificate was not available for review on-site. The PST Registration and Self-Certification form has not been amended to reflect the current operator and "temporarily out-of-service" status of the super unleaded tank. Water was observed in the fuel spill buckets (attachment 3).

A TCEQ Exit Interview Form documenting violations noted during the investigation was left at the facility (attachment 2).

ADDITIONAL INFORMATION:

NOE Date: 7/23/2010

OUTSTANDING ALLEGED VIOLATION(S)
ASSOCIATED TO A NOTICE OF ENFORCEMENT

Track No: 385461

Compliance Due Date: To Be Determined

Violation Start Date: 1/12/2010

30 TAC Chapter 334.7(d)(3)

Alleged Violation:

219000

000215

Investigation: 788230

Comment Date: 01/13/2010

Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

At the time of the investigation, the registration had not been amended to reflect the out of service status of the underground storage tanks.

Investigation: 828813

Comment Date: 07/14/2010

On June 16, 2010, Ms. Lisa E. Merritt of the TCEQ Houston Region Office conducted a PST investigation.

At the time of the investigation, the registration had not been amended to reflect the current operator and out of service status of the super unleaded storage tank.

Recommended Corrective Action: Please provide documentation that the registration has been amended to reflect the current operator and out of service status of the super unleaded storage tank.

Track No: 385464

Compliance Due Date: To Be Determined

Violation Start Date: 1/12/2010

30 TAC Chapter 334.54(b)(2)

Alleged Violation:

Investigation: 788230

Comment Date: 01/13/2010

Failure to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons. This shall be done beginning no later than the date on which the UST system has been out of service for a continuous period of three (3) months, regardless of whether or not regulated substances remain in the UST system.

At the time of the investigation, unable to be determine if all piping, pumps, manways, and ancillary equipment has been capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

Investigation: 828813

Comment Date: 07/14/2010

On June 16, 2010, Ms. Lisa E. Merritt of the TCEQ Houston Region Office conducted a PST Investigation.

As of June 16, 2010, no documentation has been received to resolve violation 30 TAC §334.54(b)(2).

Recommended Corrective Action: Please provide documentation that all piping, pumps, manways, and ancillary equipment has been capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

Track No: 385465

Compliance Due Date: To Be Determined

Violation Start Date: 1/12/2010

30 TAC Chapter 334.10(b)(1)(A)

815000

000217

Alleged Violation:

Investigation: 788230

Comment Date: 01/13/2010

Failure to develop and maintain all UST records required by the provisions of Title 30 TAC §334.49(e) pertaining to corrosion protection records.

At the time of the investigation, documentation of corrosion protection testing was not available for review.

Investigation: 828813

Comment Date: 07/14/2010

On June 16, 2010, Ms. Lisa E. Merritt of the TCEQ Houston Region Office conducted a PST investigation.

At the time of the investigation, documentation of overfill prevention equipment was not available for review.

Recommended Corrective Action: Please provide documentation of the type of overfill prevention installed on the UST system as required in accordance with the requirements in §334.10(b) of this title (relating to Reporting and Recordkeeping).

Track No: 385467

Compliance Due Date: To Be Determined

Violation Start Date: 1/12/2010

30 TAC Chapter 334.54(d)(2)

Alleged Violation:

Investigation: 788230

Comment Date: 01/13/2010

Failure to ensure that any residue from stored regulated substances which remains in the system (after the completion of the substance removal procedures under paragraph (1) of this subsection) shall not exceed a depth of 2.5 centimeters at the deepest point and shall not exceed 0.3% by weight of the system at full capacity. (empty)

At the time of the investigation, the USTs were unable to be accessed to determine if fuel remains in the tanks.

Investigation: 828813

Comment Date: 07/14/2010

On June 16, 2010, Ms. Lisa E. Merritt of the TCEQ Houston Region Office conducted a PST investigation.

As of June 16, 2010, no documentation has been received to resolve violation 30 TAC §334.54(d)(2).

Recommended Corrective Action: Please provide documentation that no more than 2.5 centimeters of fuel and/or residue remain in each tank. Within 30 days from receipt of this letter, if the fuel and/or residue has not been removed, formal enforcement action may be initiated for the violations listed above and for violation 30 Tex. Admin. Code Sections 37.815, 334.7(a)(2), and 334.50(b)(1)(A).

Track No: 405670

Compliance Due Date: To Be Determined

Violation Start Date: 3/1/2010

30 TAC Chapter 334.8(c)(5)(B)(ii)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to ensure the timely renewal of a previously issued UST delivery certificate; the deadline for submission is 30 days before the annual renewal date for the UST delivery

000219

certificate for that specific facility, as indicated in paragraph (5)(B)(iii) of this subsection:

At the time of the investigation, it was noted that the delivery certificate had expired: (01/2009) and had not been renewed.

Recommended Corrective Action: Please provide documentation the PST Registration and Self-Certification form has been completed and submitted to the TCEQ Registration Division and that a current, valid delivery certificate is posted at the facility.

Track No: 405671

Compliance Due Date: To Be Determined

Violation Start Date: 3/1/2010

30 TAC Chapter 334.8(c)(5)(A)(i)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to make available to a common carrier a valid, current Texas Commission on Environmental Quality (TCEQ) delivery certificate before delivery of a regulated substance into the UST(s) is accepted.

At the time of the investigation, a valid, current TCEQ delivery certificate was not observed at the above-referenced facility.

Recommended Corrective Action: Please provide documentation the PST Registration and Self-Certification form has been completed and submitted to the TCEQ Registration Division and that a current, valid delivery is posted at the facility.

Track No: 405672

Compliance Due Date: To Be Determined

Violation Start Date: 6/16/2010

30 TAC Chapter 37.815(a)

30 TAC Chapter 37.815(b)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to demonstrate the required financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

At the time of the investigation, documentation of financial assurance for the underground storage tank (UST) system installed at the facility was not available for review.

Recommended Corrective Action: Please provide documentation that financial assurance has been obtained for the UST system in place at the facility.

Track No: 405674

Compliance Due Date: To Be Determined

Violation Start Date: 6/16/2010

30 TAC Chapter 334.49(c)(4)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to have cathodic protection system tested by a qualified corrosion specialist or corrosion technician in accordance within three to six months after installation and at a subsequent frequency of at least once every three years.

000221

At the time of the investigation, the 3 year cathodic protection testing had not been conducted.

Recommended Corrective Action: Please provide documentation that the 3 year cathodic protection testing has been conducted.

Track No: 405676 **Compliance Due Date:** To Be Determined

Violation Start Date: 6/16/2010

30 TAC Chapter 334.50(b)(2)(A)(i)(III)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to test a line leak detector at least once per year for performance and operational reliability.

At the time of the investigation, the most recent line leak detector test results were not available for review.

Recommended Corrective Action: Please provide documentation of the most recent line leak detector test results.

Track No: 405678 **Compliance Due Date:** To Be Determined

Violation Start Date: 6/16/2010

30 TAC Chapter 334.50(b)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to have each pressurized line tested or monitored for releases in accordance with at least one of the following methods: annual piping tightness test; or one or more of the release detection methods prescribed in 30 Tex. Admin. Code §334.50, subsections (d)(5) through (d)(9), at least once every month.

At the time of the investigation, the most recent line test results were not available for review.

Recommended Corrective Action: Please provide documentation of the most recent line test results or results that the ATG is testing the lines once each month.

Track No: 405680 **Compliance Due Date:** To Be Determined

Violation Start Date: 6/16/2010

30 TAC Chapter 334.48(c)

30 TAC Chapter 334.50(d)(1)(B)(ii)

30 TAC Chapter 334.50(d)(1)(B)(iii)(I)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day and to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flowthrough for the month plus 130 gallons.

000223

At the time of the investigation, no documentation of daily and monthly inventory control procedures was available for review.

Recommended Corrective Action: Please provide documentation of monthly inventory control records for the past three (3) months, showing the opening or initial, closing, and ending stick readings, gallons dispensed and withdrawn, book inventory, closing stick readings and daily over or short along with reconciliation of inventory on a monthly basis.

Track No: 405682 **Compliance Due Date:** To Be Determined
Violation Start Date: 6/16/2010

30 TAC Chapter 334.42(I)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to ensure that any sumps (including dispenser sumps) or manways installed prior to January 1, 2009, which are utilized as an integral part of a UST release detection system, and any overspill containers or catchment basins installed at any time, which are associated with a UST system are inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Any liquids or debris found in them during an inspection must be removed and properly disposed of within 72 hours of discovery.

At the time of the investigation, there was no documentation that the overspill containers or catchment basins were being inspected for liquid every 60 days. Water was observed in the fuel spill buckets.

Recommended Corrective Action: Please provide documentation that the overspill containers or catchment basins are being inspected for liquid every 60 days and that any water has been removed from the buckets.

Track No: 405712 **Compliance Due Date:** To Be Determined
Violation Start Date: 6/16/2010

30 TAC Chapter 115.226(1)

Alleged Violation:

Investigation: 828813

Comment Date: 07/14/2010

Failure to maintain a record at the facility site of the dates on which gasoline was delivered to the dispensing facility and the identification number and date of the last leak testing, required by §115.224(2) of this title (relating to Inspection Requirements), of each tank-truck tank from which gasoline was transferred to the facility.

At the time of the investigation, documentation of gasoline delivery receipts/bills of lading were not available for review.

Recommended Corrective Action: Please provide documentation of the gasoline delivery receipts/bills of lading for the months of March through June, 2010.

Signed *A. E. Meurt*
Environmental Investigator

Date 7/19/10

Signed *[Signature]*
Supervisor

Date 7/26/2010

Attachments: (in order of final report submittal)

- Enforcement Action Request (EAR)
- Letter to Facility (specify type): NOE
- Investigation Report
- Sample Analysis Results
- Manifests
- NOR

- Maps, Plans, Sketches
- Photographs
- Correspondence from the facility
- Other (specify):

Attachment 1 - ownership information
Attachment 2 - Exit form
Attachment 3 - Photographs

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 26, 2010

CERTIFIED MAIL # 7008 0500 0001 3085 7402
RETURN RECEIPT REQUESTED

Mr. Binh Tran, Owner/Operator
Mini Mart 102
4210 FM 517 East
Dickinson, Texas 77539

Re: Notice of Enforcement for the Petroleum Storage Tank, Modified Compliance, Evaluation
Investigation at:
Mini Mart 102, 2311 25th Avenue, Texas City (Galveston County), Texas
Facility ID No.: 0039040

Dear Mr. Tran:

On June 16, 2010, Ms. Lisa E. Merritt of the Texas Commission on Environmental Quality (TCEQ) Houston Region Office conducted an investigation of the above-referenced facility to evaluate compliance with applicable requirements for petroleum storage tanks (PSTs) and control of vehicle refueling emissions (Stage II) at motor vehicle fuel dispensing facilities. During the investigation, certain outstanding alleged violations were identified. Enclosed is a summary which lists the investigation findings.

In the listing of alleged violations, we have cited applicable requirements, including TCEQ rules. If you would like to obtain a copy of the applicable TCEQ rules, you may contact any of the sources listed in the enclosed brochure entitled "Obtaining TCEQ Rules."

Also, please be advised that the Legislature has granted enforcement powers to the TCEQ to carry out its mission to protect human health and the environment. TCEQ's enforcement powers include authority under Texas Water Code §§26.3475(e) and 26.352(I) to order an underground storage tank (UST) system to be placed out of service (shutdown) when found to be noncompliant with one or more regulations related to: release detection; spill and overfill prevention; corrosion protection; and financial responsibility.

Due to the apparent seriousness of the alleged violations, formal enforcement action has been initiated, and additional violations may be cited upon further review. We encourage you to immediately begin taking actions to address the outstanding alleged violations.

In responding with prompt corrective action, the administrative penalty to be assessed may be limited.

The Commission recognizes that the great majority of the regulated community wants to prevent pollution and to comply with environmental laws. We dedicate considerable resources toward making voluntary compliance achievable. But where compliance has not been met it is our duty to protect the public and the environment by enforcing the state's environmental laws, regulations, and permits.

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000229

REPLY TO: REGION 12 • 5425 POLK ST., STE. H • HOUSTON, TEXAS 77023-1452 • 713-767-3500 • FAX 713-767-3520

P.O. Box 13087 • Austin, Texas 78711-3087 • 512-239-1000 • www.tceq.state.tx.us

Mr. Tran
July 26, 2010
Page -2-

Also, if you believe the violations documented in this notice have been cited in error, and you have additional information that we are unaware of, you may request a meeting to discuss this enforcement matter. To request meeting, send a letter describing the additional information to the address shown below.

Manager, Waste Section
Enforcement Division, MC 219
Re: Enforcement Meeting Request
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

If you or members of your staff have any questions regarding these matters, please feel free to contact Ms. Lisa E. Merritt in the Houston Region Office at (713)767-3603.

Sincerely,



Todd A. Thompson, Team Leader,
Petroleum Storage Tank and Stage II Team
Houston Region Office

TAT/LEM/ap

cc: Mr. Binh Tran, Owner/Operator, Mini Mart 102, 2311 25th Avenue, Texas City, Texas 77590
Mr. Ali Zulfiqar, Mini Mart 102, 2311 25th Avenue, Texas City, Texas 77590

Enclosures: Summary of Investigation Findings
Obtaining TCEQ Rules

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000231

Summary of Investigation Findings

MINI MART 102

2311 25TH AVE N

TEXAS CITY, GALVESTON COUNTY, TX 77590

Additional ID(s): 39040

Investigation # 828813

Investigation Date: 06/16/2010

OUTSTANDING ALLEGED VIOLATION(S) ASSOCIATED TO A NOTICE OF ENFORCEMENT

Track No: 385461 Compliance Due Date: To Be Determined
30 TAC Chapter 334.7(d)(3)

Alleged Violation:

Investigation: 788230

Comment Date: 1/13/2010

Failure to provide amended registration for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

At the time of the investigation, the registration had not been amended to reflect the out of service status of the underground storage tanks.

Investigation: 828813

Comment Date: 7/14/2010

On June 16, 2010, Ms. Lisa E. Merritt of the TCEQ Houston Region Office conducted a PST investigation.

At the time of the investigation, the registration had not been amended to reflect the current operator and out of service status of the super unleaded storage tank.

Recommended Corrective Action: Please provide documentation that the registration has been amended to reflect the current operator and out of service status of the super unleaded storage tank.

Track No: 385464 Compliance Due Date: To Be Determined
30 TAC Chapter 334.54(b)(2)

Alleged Violation:

Investigation: 788230

Comment Date: 1/13/2010

Failure to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons. This shall be done beginning no later than the date on which the UST system has been out of service for a continuous period of three (3) months, regardless of whether or not regulated substances remain in the UST system.

At the time of the investigation, unable to be determine if all piping, pumps, manways, and ancillary equipment has been capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

Investigation: 828813

Comment Date: 7/14/2010

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On June 16, 2010, Ms. Lisa E. Merritt of the TCEQ Houston Region Office conducted a PST investigation.

As of June 16, 2010, no documentation has been received to resolve violation 30 TAC §334.54(b)(2).

Recommended Corrective Action: Please provide documentation that all piping, pumps, manways, and ancillary equipment has been capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

Track No: 385465 Compliance Due Date: To Be Determined

30 TAC Chapter 334.10(b)(1)(A)

Alleged Violation:

Investigation: 788230

Comment Date: 1/13/2010

Failure to develop and maintain all UST records required by the provisions of Title 30 TAC §334.49(e) pertaining to corrosion protection records.

At the time of the investigation, documentation of corrosion protection testing was not available for review.

Investigation: 828813

Comment Date: 7/14/2010

On June 16, 2010, Ms. Lisa E. Merritt of the TCEQ Houston Region Office conducted a PST investigation.

At the time of the investigation, documentation of overfill prevention equipment was not available for review.

Recommended Corrective Action: Please provide documentation of the type of overfill prevention installed on the UST system as required in accordance with the requirements in §334.10(b) of this title (relating to Reporting and Recordkeeping).

Track No: 385467 Compliance Due Date: To Be Determined

30 TAC Chapter 334.54(d)(2)

Alleged Violation:

Investigation: 788230

Comment Date: 1/13/2010

Failure to ensure that any residue from stored regulated substances which remains in the system (after the completion of the substance removal procedures under paragraph (1) of this subsection) shall not exceed a depth of 2.5 centimeters at the deepest point and shall not exceed 0.3% by weight of the system at full capacity. (empty)

At the time of the investigation, the USTs were unable to be accessed to determine if fuel remains in the tanks.

Investigation: 828813

Comment Date: 7/14/2010

On June 16, 2010, Ms. Lisa E. Merritt of the TCEQ Houston Region Office conducted a PST Investigation.

As of June 16, 2010, no documentation has been received to resolve violation 30 TAC §334.54(d)(2).

Recommended Corrective Action: Please provide documentation that no more than 2.5 centimeters of fuel and/or residue remain in each tank. Within 30 days from receipt of this letter, if the fuel and/or residue has not been removed, formal enforcement action may be initiated for the violations listed above and for violation 30 Tex. Admin. Code Sections 37.815, 334.7(a)(2), and 334.50(b)(1)(A).

Track No: 405670 Compliance Due Date: To Be Determined
30 TAC Chapter 334.8(c)(5)(B)(ii)

Alleged Violation:

Investigation: 828813

Comment Date: 7/14/2010

Failure to ensure the timely renewal of a previously issued UST delivery certificate; the deadline for submission is 30 days before the annual renewal date for the UST delivery certificate for that specific facility, as indicated in paragraph (5)(B)(iii) of this subsection.

At the time of the investigation, it was noted that the delivery certificate had expired (01/2009) and had not been renewed.

Recommended Corrective Action: Please provide documentation the PST Registration and Self-Certification form has been completed and submitted to the TCEQ Registration Division and that a current, valid delivery certificate is posted at the facility.

Track No: 405671 Compliance Due Date: To Be Determined
30 TAC Chapter 334.8(c)(5)(A)(i)

Alleged Violation:

Investigation: 828813

Comment Date: 7/14/2010

Failure to make available to a common carrier a valid, current Texas Commission on Environmental Quality (TCEQ) delivery certificate before delivery of a regulated substance into the UST(s) is accepted.

At the time of the investigation, a valid, current TCEQ delivery certificate was not observed at the above-referenced facility.

Recommended Corrective Action: Please provide documentation the PST Registration and Self-Certification form has been completed and submitted to the TCEQ Registration Division and that a current, valid delivery is posted at the facility.

Track No: 405672 Compliance Due Date: To Be Determined
30 TAC Chapter 37.815(a)
30 TAC Chapter 37.815(b)

Alleged Violation:

Investigation: 828813

Comment Date: 7/14/2010

Failure to demonstrate the required financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

At the time of the investigation, documentation of financial assurance for the underground storage tank (UST) system installed at the facility was not available for review.

Recommended Corrective Action: Please provide documentation that financial assurance has been obtained for the UST system in place at the facility.

Track No: 405674 Compliance Due Date: To Be Determined
30 TAC Chapter 334.49(c)(4)

Alleged Violation:

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Failure to have cathodic protection system tested by a qualified corrosion specialist or corrosion technician in accordance within three to six months after installation and at a subsequent frequency of at least once every three years.

At the time of the investigation, the 3 year cathodic protection testing had not been conducted.

Recommended Corrective Action: Please provide documentation that the 3 year cathodic protection testing has been conducted.

Track No: 405676 **Compliance Due Date:** To Be Determined
30 TAC Chapter 334.50(b)(2)(A)(i)(III)

Alleged Violation:

Investigation: 828813

Comment Date: 7/14/2010

Failure to test a line leak detector at least once per year for performance and operational reliability.

At the time of the investigation, the most recent line leak detector test results were not available for review.

Recommended Corrective Action: Please provide documentation of the most recent line leak detector test results.

Track No: 405678 **Compliance Due Date:** To Be Determined
30 TAC Chapter 334.50(b)

Alleged Violation:

Investigation: 828813

Comment Date: 7/14/2010

Failure to have each pressurized line tested or monitored for releases in accordance with at least one of the following methods: annual piping tightness test; or one or more of the release detection methods prescribed in 30 Tex. Admin. Code §334.50, subsections (d)(5) through (d)(9), at least once every month.

At the time of the investigation, the most recent line test results were not available for review.

Recommended Corrective Action: Please provide documentation of the most recent line test results or results that the ATG is testing the lines once each month.

Track No: 405680 **Compliance Due Date:** To Be Determined
30 TAC Chapter 334.48(c)
30 TAC Chapter 334.50(d)(1)(B)(ii)
30 TAC Chapter 334.50(d)(1)(B)(iii)(I)

Alleged Violation:

Investigation: 828813

Comment Date: 7/14/2010

Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day and to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flowthrough for the month plus 130 gallons.

At the time of the investigation, no documentation of daily and monthly inventory control

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procedures was available for review.

Recommended Corrective Action: Please provide documentation of monthly inventory control records for the past three (3) months, showing the daily inventory including the opening or initial stick readings, gallons dispensed and withdrawn, book inventory, closing stick readings and daily over or short along with reconciliation of inventory on a monthly basis.

Track No: 405682 **Compliance Due Date:** To Be Determined
30 TAC Chapter 334.42(i)

Alleged Violation:

Investigation: 828813

Comment Date: 7/14/2010

Failure to ensure that any sumps (including dispenser sumps) or manways installed prior to January 1, 2009, which are utilized as an integral part of a UST release detection system, and any overspill containers or catchment basins installed at any time, which are associated with a UST system are inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Any liquids or debris found in them during an inspection must be removed and properly disposed of within 72 hours of discovery.

At the time of the investigation, there was no documentation that the overspill containers or catchment basins were being inspected for liquid every 60 days. Water was observed in the fuel spill buckets.

Recommended Corrective Action: Please provide documentation that the overspill containers or catchment basins are being inspected for liquid every 60 days and that any water has been removed from the buckets.

Track No: 405712 **Compliance Due Date:** To Be Determined
30 TAC Chapter 115.226(1)

Alleged Violation:

Investigation: 828813

Comment Date: 7/14/2010

Failure to maintain a record at the facility site of the dates on which gasoline was delivered to the dispensing facility and the identification number and date of the last leak testing, required by §115.224(2) of this title (relating to Inspection Requirements), of each tank-truck tank from which gasoline was transferred to the facility.

At the time of the investigation, documentation of gasoline delivery receipts/bills of lading were not available for review.

Recommended Corrective Action: Please provide documentation of the gasoline delivery receipts/bills of lading for the months of March through June, 2010.

Reconciliation of Certified Mail

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Region 12-Houston

Database entry by: _____

Acknowledgment of receipt of TCEQ correspondence:

Affix (White Form) PS Form 3800 and Acknowledgment Receipt PS 3811 (Green Card) Here

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	
Certified Fee	
	Postmark
(En)	Mr. Binh Tran, Owner/Operator
Rt	Mini Mart 102
(En)	4210 FM 517 East
Ti	Dickinson, Texas 77539
Sei	
Street, Apt. No., or PO Box No. City, State, ZIP+4	
PS Form 3800, August 2006 See Reverse for Instructions	

7008 0500 0001 3085 7402

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See note: Who Fills out the EAR? ►

**Enforcement
Action
Referral**
Rev. 3/18/2002

Inv. #	828813	Initiated by: Region, LP, Central:	Region
Enf Case		Name of Initiating Office:	REGION 12 - HOUSTON
Media Code:	PST		

Section 1: Respondent

ID	CN601378953		Role	RESP PARTY
Name	BINH TRAN			
Mailing Address	Street/PO Box	2311 25TH AVE N		
	City/State/Zip	TEXAS CITY, TX 77590		
	Phone	(281) 248-7646	Fax	

Primary Contact (NOE Contact)			
Name	BINH TRAN	Organization	MINI MART 2
Title	Owner	Phone	(281) 248-7646
		Fax	

Section 2: Respondent's Facility/Operation (F/O)

F/O ID	RN102714474		
F/O Name	MINI MART 102		
F/O Physical Address	2311 25TH AVE N		
Location City	TEXAS CITY	Location Zip	77590
Location County	GALVESTON	Operational Status	Active
Primary Business Activity	Convenience Store with retail gaso	Type of Small Entity	Small Business
SNC or HPV?	N/A	SIC Code	5541
Potentially Affected Area	N/A	Complaints Closed	0
List any NOVs? Orders for same or similar violations at this F/O in the past 5 years.	No similar violations within the past five years.		
Additional IDs	39040		

Section 3: Summary of Violations

See note: Inclusion of Resolved or Verbal Violations ►

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Viol Num	Requirements Cited Violation Description	Violation Dates		Investigation/ File Review	Date of...		CAT
		Start	End		NOV	NOE	
385461	30 TAC Chapter 334.7(d)(3)	01/12/2010	Unknown	06/16/2010		07/26/2010	C
Failure to provide amended registration.							
385464	30 TAC Chapter 334.54(b)(2)	01/12/2010	Unknown	06/16/2010		07/26/2010	B
Failure to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.							
385465	30 TAC Chapter 334.10(b)(1)(A)	01/12/2010	Unknown	06/16/2010		07/26/2010	C
Failure to develop and maintain all UST records required by the provisions of Title 30 TAC §334.49(e) pertaining to corrosion protection records.							
385467	30 TAC Chapter 334.54(d)(2)	01/12/2010	Unknown	06/16/2010		07/26/2010	B
Failure to ensure that any residue from stored regulated substances which remains in the system.							
405670	30 TAC Chapter 334.8(c)(5)(B) (ii)	03/01/2010	Unknown	06/16/2010		07/26/2010	A
Failure to ensure the timely renewal of a previously issued UST delivery certificate; the deadline for submission is 30 days before the annual renewal date for the UST delivery certificate for that specific facility, as indicated in paragraph (5)(B)(iii) of this subsection.							
405671	30 TAC Chapter 334.8(c)(5)(A)(i)	03/01/2010	Unknown	06/16/2010		07/26/2010	A
Failure to make available to a common carrier a valid, current Texas Commission on Environmental Quality (TCEQ) delivery certificate before delivery of a regulated substance into the UST(s) is accepted.							
405672	30 TAC Chapter 37.815(a)	06/16/2010	Unknown	06/16/2010		07/26/2010	A
	30 TAC Chapter 37.815(b)	06/16/2010	Unknown	06/16/2010		07/26/2010	A
Failure to demonstrate the required financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.							
405674	30 TAC Chapter 334.49(c)(4)	06/16/2010	Unknown	06/16/2010		07/26/2010	B
Failure to have cathodic protection system tested by a qualified corrosion specialist or corrosion technician in accordance within three to six months after installation and at a subsequent frequency of at least once every three years.							
405676	30 TAC Chapter 334.50(b)(2)(A) (i)(ii)	06/16/2010	Unknown	06/16/2010		07/26/2010	B
Failure to test a line leak detector at least once per year for performance and operational reliability.							
405678	30 TAC Chapter 334.50(b)	06/16/2010	Unknown	06/16/2010		07/26/2010	A
Failure to have each pressurized line tested or monitored for releases in accordance with at least one of the following methods: annual piping tightness test; or one or more of the release detection methods prescribed in 30 Tex. Admin. Code §334.50, subsections (d)(5) through (d)(9), at least once every month.							
405680	30 TAC Chapter 334.48(c)	06/16/2010	Unknown	06/16/2010		07/26/2010	B
	30 TAC Chapter 334.50(d)(1)(B) (ii)	06/16/2010	Unknown	06/16/2010		07/26/2010	B
	30 TAC Chapter 334.50(d)(1)(B) (iii)(i)	06/16/2010	Unknown	06/16/2010		07/26/2010	B
Failure to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day and to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flowthrough for the month plus 130 gallons.							
405682	30 TAC Chapter 334.42(i)	06/16/2010	Unknown	06/16/2010		07/26/2010	B
Failure to ensure that any sumps (including dispenser sumps) or manways installed prior to January 1, 2009, which are utilized as an integral part of a UST release detection system, and any overspill containers or catchment basins installed at any time, which are associated with a UST system are inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight.							
405712	30 TAC Chapter 115.226(1)	06/16/2010	Unknown	06/16/2010		07/26/2010	C
Failure to maintain a record at the facility site of the dates on which gasoline was delivered to the dispensing facility from each tank-truck tank from which gasoline was transferred to the facility.							

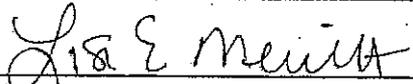
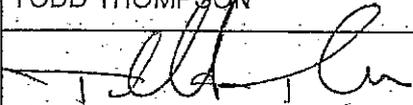
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Section 4: Additional Discussion

Section 5: Additional Issues

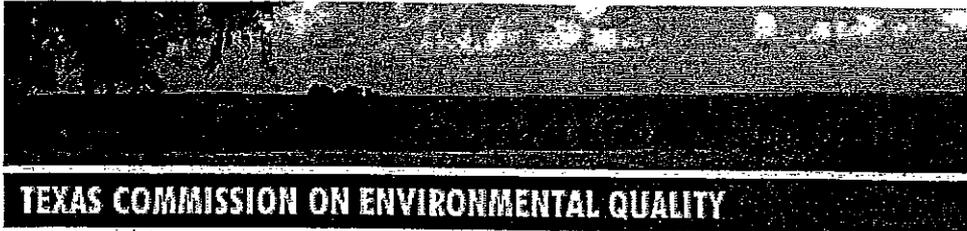
N/A

Section 6: Information About Initiating Office

	Name	LISA MERRITT	Date	7-26-10
	Signature		E-Mail	LMERRITT@tceq.state.tx.us
	Phone	7137673603		
	Name	TODD THOMPSON	Date	7/26/2010
	Signature		E-Mail	TOTHOMPS@tceq.state.tx.us
	Phone	713-767-8941		

ATTACHMENT 1

- **PST Registration Database**
- **TRACS**
- **Galveston County Appraisal District**



PST Registration Database Query Results

Facility Information	
Facility ID:	39040
Facility name:	MINI MART 102
Address:	2311 25TH AVEN TEXAS CITY TX 77590-
Date registered:	05/08/86
TCEQ region:	12, Houston
County:	Galveston
Facility type:	Retail
Non-attainment area:	Yes
Number of In Use/Removed USTs:	0003
Number of In Use and Out-of-Use ASTs:	0000
Manager/Title:	ANTHONY TRAN,
Phone:	409-948-1407
Signature/Title:	DOUG BERRYMAN, R
Date signed:	04/30/86
Owner Effective Begin Date:	09/30/98

Owner Information	
Owner ID:	52461
Name:	TRAN BINH
Address:	4210 FM 517 E DICKINSON TX 77539-
Owner Type:	Individual
Contact:	TRAN BINH
Phone:	281-248-7646
Mail Undeliverable?:	No
Bankruptcy:	No
Total Number of Registered Facilities:	0001

Operator Information	
Operator ID:	095314
Name:	TRAN
Address:	4210 FM 517 E DICKINSON TX 77539-
Operator Phone:	
Contact Name/Title:	TRAN,
Contact Phone:	281-248-7646

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Operator Type:	Individual
Effective Date:	09/30/98

Self-Certification Information	
Signature/Title:	A M ZULFIQAR, OWNER
Signature Type:	Owner
Date:	05/05/08
Registration:	Yes
Fees:	Yes
Financial Assurance:	Yes
Technical Standards:	Yes
UST Delivery Certificate Expires:	01/2009
Our records indicate that a UST Delivery Certificate with an expiration date of 01/2009 has been or will be mailed (within three business days) to you. If you have not received your Delivery Certificate please contact the PST Registration Team at 512-239-2160 for assistance.	
UST Compartment Self-certification Information	
Tank ID/Compartment Letter:	1 A
Self-certification Date:	05/05/08
Tank ID/Compartment Letter:	1 A
Self-certification Date:	04/02/04
Tank ID/Compartment Letter:	1 A
Self-certification Date:	12/26/01
Tank ID/Compartment Letter:	1 A
Self-certification Date:	04/05/01
Tank ID/Compartment Letter:	2 A
Self-certification Date:	05/05/08
Tank ID/Compartment Letter:	2 A
Self-certification Date:	04/02/04
Tank ID/Compartment Letter:	2 A
Self-certification Date:	12/26/01
Tank ID/Compartment Letter:	2 A
Self-certification Date:	04/05/01
Tank ID/Compartment Letter:	3 A
Self-certification Date:	05/05/08
Tank ID/Compartment Letter:	3 A
Self-certification Date:	04/02/04
Tank ID/Compartment Letter:	3 A
Self-certification Date:	12/26/01
Tank ID/Compartment Letter:	3 A
Self-certification Date:	04/05/01

Underground Storage Tanks	
Tank ID: 1	
Status/Status Date:	In Use / /
Installed/Registered:	01/01/1974 / 05/08/1986
Capacity/Empty:	0006000 / No
	Tank
Material:	Steel
Other Material:	

Design and External Containment	
I:	Single wall
II:	
III:	
IV:	
Internal Protection Date:	00/00/0000
Corrosion Protection	
I:	Cathodic protection - Field installation
II:	
III:	
Other:	
Variance :	No variance(2) Piping
Type of Piping:	Pressurized
Piping Material:	Fiberglass-reinforced plastic (FRP)
Other Piping Material:	
Design and External Containment	
I:	Single wall
II:	
III:	
IV:	
Connectors and Valves	
I:	Flexible connectors (at ends of piping)
II:	Sheer/Impact valves (under dispenser)
III:	Steel swing-joints (at ends of piping)
Corrosion Protection	
I:	FRP tank or piping (noncorrodible)
II:	
III:	
Other:	
Variance:	No variance Vapor Recovery
Stage 1 Equipment Status:	Two-point system or coaxial system type
Installed:	//
Stage 2 Equipment Status:	Balance system or assist system type
Installed:	03/25/1999
Installer Information	
Installer Company:	
Contractor Registration Number:	
Installer Name:	
Installer License #:	
Tank Tested:	No Compartments
Compartment Letter:	A
Capacity:	0000000
Substance Stored:	Gasoline
Other Substance Stored:	
Tank Release Detection	
I:	Automatic tank gauge test and inventory control
II:	SIR (statistical inventory reconciliation) and inventory control
III:	Vapor monitoring

Other:	
Variance:	No variance
Pipe Release Detection	
I:	Annual Tightness test (@ 0.1 gph)
II:	Automatic line leak detector (3.0 gph for pressure piping)
III:	Monthly piping tightness testing (@ 0.2 gph)
Other:	
Variance:	No variance
Spill and Overfill Prevention	
I:	Auto delivery shut-off valve
II:	Factory-built spill container/bucket/sump
III:	Tight-fill fitting
Variance:	No variance

Tank ID: 2	
Status/Status Date:	In Use //
Installed/Registered:	01/01/1974 / 05/08/1986
Capacity/Empty:	0006000 / No
	Tank
Material:	Steel
Other Material:	
Design and External Containment	
I:	Single wall
II:	
III:	
IV:	
Internal Protection Date:	00/00/0000
Corrosion Protection	
I:	Cathodic protection - Field installation
II:	
III:	
Other:	
Variance :	No variance(2)
	Piping
Type of Piping:	Pressurized
Piping Material:	Fiberglass-reinforced plastic (FRP)
Other Piping Material:	
Design and External Containment	
I:	Single wall
II:	
III:	
IV:	
Connectors and Valves	
I:	Flexible connectors (at ends of piping)
II:	Sheer/Impact valves (under dispenser)
III:	Steel swing-joints (at ends of piping)
Corrosion Protection	
I:	FRP tank or piping (noncorrodible)
II:	
III:	

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Other:	
Variance:	No variance Vapor Recovery
Stage 1 Equipment Status:	Two-point system or coaxial system type
Installed:	//
Stage 2 Equipment Status:	Balance system or assist system type
Installed:	03/25/1999
Installer Information	
Installer Company:	
Contractor Registration Number:	
Installer Name:	
Installer License #:	
Tank Tested:	No Compartments
Compartment Letter:	A
Capacity:	0000000
Substance Stored:	Gasoline
Other Substance Stored:	
Tank Release Detection	
I:	Automatic tank gauge test and inventory control
II:	SIR (statistical inventory reconciliation) and inventory control
III:	Vapor monitoring
Other:	
Variance:	No variance
Pipe Release Detection	
I:	Annual Tightness test (@ 0.1 gph)
II:	Automatic line leak detector (3.0 gph for pressure piping)
III:	Monthly piping tightness testing (@ 0.2 gph)
Other:	
Variance:	No variance
Spill and Overfill Prevention	
I:	Auto delivery shut-off valve
II:	Factory-built spill container/bucket/sump
III:	Tight-fill fitting
Variance:	No variance

Tank ID:	3
Status/Status Date:	In Use //
Installed/Registered:	01/01/1985 / 05/08/1986
Capacity/Empty:	0006000 / No
	Tank
Material:	Steel
Other Material:	
Design and External Containment	
I:	Single wall
II:	
III:	
IV:	
Internal Protection Date:	00/00/0000
Corrosion Protection	

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I:	Cathodic protection - Field installation
II:	
III:	
Other:	
Variance:	No variance(2)
Type of Piping:	Piping
Piping Material:	Pressurized
Other Piping Material:	Fiberglass-reinforced plastic (FRP)
Design and External Containment	
I:	Single wall
II:	
III:	
IV:	
Connectors and Valves	
I:	Flexible connectors (at ends of piping)
II:	Sheer/Impact valves (under dispenser)
III:	Steel swing-joints (at ends of piping)
Corrosion Protection	
I:	FRP tank or piping (noncorrodible)
II:	
III:	
Other:	
Variance:	No variance
Stage 1 Equipment Status:	Vapor Recovery
Installed:	Two-point system or coaxial system type
Stage 2 Equipment Status:	//
Installed:	Balance system or assist system type
Installer Company:	03/25/1999
Contractor Registration Number:	Installer Information
Installer Name:	
Installer License #:	
Tank Tested:	No
Compartment Letter:	Compartments
Capacity:	A
Substance Stored:	0000000
Other Substance Stored:	Gasoline
Tank Release Detection	
I:	Automatic tank gauge test and inventory control
II:	SIR (statistical inventory reconciliation) and inventory control
III:	Vapor monitoring
Other:	
Variance:	No variance
Pipe Release Detection	
I:	Annual Tightness test (@ 0.1 gph)
II:	Automatic line leak detector (3.0 gph for pressure piping)
III:	Monthly piping tightness testing (@ 0.2 gph)
Other:	

Variance:	No variance
Spill and Overfill Prevention	
I:	Auto delivery shut-off valve
II:	Factory-built spill container/bucket/sump
III:	Tight-fill fitting
Variance:	No variance

[Contact us](#) if you have any questions.

Last Modified: July 2, 2009

REVIEW HISTORY OF STORAGE TANK FACILITY

Facility ID: 39040 Facility Name: MINI MART 102 Owner Account ID: 52461

Historicized Changes to this Facility

Change Date	Description of Change	User ID	Ne
17-Jun-2010	Facility Notes	ALL	<input type="checkbox"/>
24-Feb-2010	NOC ID 6651 - Seq #2 added.	mdeunger	<input type="checkbox"/>
6-Dec-2009	Paradox data migrated	dgraham	<input type="checkbox"/>
5-Jun-2008	Self-Certification Entered	whubbell	<input type="checkbox"/>
4-Apr-2008	NOC and related data entered	BN	<input type="checkbox"/>
12-Apr-2004	Fac 39040 address changed.	shill	<input type="checkbox"/>
12-Apr-2004	Fac 39040 contact changed.	shill	<input type="checkbox"/>
12-Apr-2004	Self-Certification Entered	shill	<input type="checkbox"/>
11-Jan-2002	Facility Data Changed - CRDB	pstload	<input type="checkbox"/>
11-Jan-2002	Self-Certification Entered	mboecker	<input type="checkbox"/>

(Click Note button to view note below)

Note for Selected Amendment

Done

PETROLEUM STORAGE TANK FACILITY REVIEW

Facility ID: 39040 Facility Name: MINI MART 102 Facility Type: Retail Facility Begin Date: 30-sep-1998

(Proposed Facility)

Street Num: 2311 Street Name: 25TH Street Design: AVE N
N, S, etc. St., Ave., etc. NW, etc.

Rural Route Box:

Information [X]

 Proof of FA has expired. Database value changed to FALSE.

City: TEXAS CITY

Owner Account ID/wner ID: 52461 Owner Name: RAN, B.

ST-FA Required

Facility Contact Title: Facility Contact Telephone: 409-948-1407

Facility Contact First Name/MI: ANTHONY Facility Contact Last Name: TRAN

Active UST's	Active AST's
3	0
<input type="button" value="Review Tanks"/>	

Ownership Pending Facility Records Off-Site
 Ownership in Dispute No Notes
 Ownership Unconfirmed

UST Self-Certification & Compliance Review

Facility ID: 39040
 Delivery Certificate Expiration Date: 31-Jan-2009

Registration Self-Certified Fees Self-Certified
 Tech Std Self-Certified FA Self-Certified

Last Self-Certified by: A M ZULFIQAR

Last Certifier Type: Owner

Technical Standards in Compliance

Corrosion Protection	Release Detection	Spill Prev	Tech Std Key Y=Yes N=No V=Variance
----------------------	-------------------	------------	--

Tank ID	Comp ID	Self-Cert Dt	Tank	Pipe	Comp	Comp Pipe	Comp
1	A	5-may-2008	Y	Y	Y	Y	Y
1	A	2-apr-2004	Y	Y	Y	Y	Y
1	A	26-dec-2001	Y	Y	Y	Y	Y
1	A	5-apr-2001	Y	Y	Y	Y	Y
2	A	5-may-2008	Y	Y	Y	Y	Y
2	A	2-apr-2004	Y	Y	Y	Y	Y
2	A	26-dec-2001	Y	Y	Y	Y	Y
2	A	5-apr-2001	Y	Y	Y	Y	Y
3	A	5-may-2008	Y	Y	Y	Y	Y
3	A	2-apr-2004	Y	Y	Y	Y	Y

Done

History Amendment Log

REVIEW PETROLEUM STORAGE TANK FINANCIAL ASSURANCE

Facility ID: 99040 Facility Name: MINIMART 102 Rev'd Date: 2-jun-2008

- Meets CA FA Reqs
- Meets 3rd Party FA Reqs

Mechanism Type(s):
 Insurance or Risk Retention Group
 Financial Test
 Guarantee
 Letter of Credit
 Surety Bond
 Local Gov. Financial Test
 Local Gov. Guarantee
 Trust Account
 Other (Specify)

Issuer Name: COLONY INS CO
Issuer Phone: 512-219-1911

Policy Number: P9641042
Effective Date: 19-may-2008 Expiration Date: 19-may-2009
Coverage Amount: \$1,000,000.00
 Ins. Premium Pre-Paid for entire year

Done

REVIEW AMENDMENTS FOR FACILITY'S FINANCIAL ASSURANCE

Facility ID: 39040 **Facility Name:** MINI MART 102

Historicized Changes for Facility FA

Change Date	Description of Change	User ID	Note
17-Jun-2010	Financial Assurance has expired	fmerritt	<input type="checkbox"/>
5-Jun-2008	Financial Assurance Entered	whubbell	<input type="checkbox"/>

(Click Note button to view note below)

Note for Selected Amendment

Done

print

UST Self-Certification & Compliance Review

Facility ID: Delivery Certificate:
 Registration Self-Certified Fees Self-Certified
 Tech Std Self-Certified FA Self-Certified

Last Self-Certified by:

Last Certifier type:

Technical Standards In Compliance

Corrosion Protection	Release Detection	Spill Prev	Tech Std Key
			Y = Yes N = No V = Variance

Tank ID	Comp ID	Self-Cert Dt	Tank	Pipe	Comp	Comp Pipe	Comp
1	A	5-may-2008	Y	Y	Y	Y	Y
1	A	2-apr-2004	Y	Y	Y	Y	Y
1	A	26-dec-2001	Y	Y	Y	Y	Y
1	A	5-apr-2001	Y	Y	Y	Y	Y
2	A	5-may-2008	Y	Y	Y	Y	Y
2	A	2-apr-2004	Y	Y	Y	Y	Y
2	A	26-dec-2001	Y	Y	Y	Y	Y
2	A	5-apr-2001	Y	Y	Y	Y	Y
3	A	5-may-2008	Y	Y	Y	Y	Y
3	A	2-apr-2004	Y	Y	Y	Y	Y

Done

REVIEW STORAGE TANK OWNER

Name: (Last Name for Individual)		Owner Account ID
TRAN		52461
(First Name for Individual)		
BINH		# of Facilities
		1
Business type	Tax ID (or S/S Number)	# of Active UST's
Individual		3
Legal Name		# of Active AST's
TRAN BINH		0
Attention: (for billing)		
In Care Of		
Street Num.	Street Name	Street Desig.
4210	FM 517	E
P.O. Box	Address Addition	City
		DICKINSON
State	ZIP	Country
TX	77539	USA
<input type="checkbox"/> Deliverable	<input type="checkbox"/> No Bankruptcies	<input type="button" value="Done"/>
<input type="checkbox"/> Not In Enforcement		

tracs_top level				[X] [X] [X]	
choose_pst_fac_review				[X] [X] [X]	
pst_facility_review				[X] [X] [X]	
pst_tank_operator_review				[X] [X] [X]	
Amendment Log					
REVIEW STORAGE TANK OPERATOR INFORMATION					
Facility ID	Operator ID	Effective Date	Operator Contact		
39040	95914	30 sep 1998	Contact Title		
Business Type			Name of Operator Contact		
individual			TRAN		
Name of Tank Operator			{First Name for Individual}		
TRAN			BINH		
{First Name for Individual}			Telephone		
BINH			281-248-7646		
Street Num.	Street Name	Street Desig.			
4210	FM 517	E			
<small>N, S, etc. St, Ave, etc. NW, etc.</small>					
P.O. Box/Rural Route Box	Address Addition				
City	State	ZIP	Country	phone	
DICKINSON	TX	77539	USA		
Done					
plobr1					

000281

Current Owner		Legal Description		Exemptions		Appraised	
TRAN, BINH (0454417) 13906 WINTER HARVEST CT HOUSTON, TX 77059		ABST 142 PAGE 2 PT OF LOTS 10 & 11 TEXAS CITY HEIGHTS RESUB OF LOTS 73, 77 TO 80		221,240			
2311 25TH AVE N TEXAS CITY, TX 77590		GGA, J05, S18, C31, RFL		0		Homestead/Gap	
Sales		History Information		2005		2006	
Date	Volume	Page	Seller Name	Imp/HS	Imp/HS	Land HS	Land HS
013-02-0822	005-66-1892		EVANS, J L Sr. LITTLE CHEIF MINT MARKET	\$0	\$0	\$196,790	\$196,790
				\$0	\$0	\$0	\$0
				\$23,100	\$23,100	\$23,100	\$23,100
				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
				\$0	\$0	\$0	\$0
				\$221,240	\$219,890	\$219,890	\$219,890
Building Attributes		Improvements		Year Built		Year	
Construction	Foundation	Exterior	Interior	Roof	Flooring	Area	Value
CS	BV	SR	FL	TI		3825	\$173,180
Heat/AC	Baths	Fireplace	Year Built	Rooms	Bedrooms		\$162,470
CH-CA			1982			522	\$5,710
Land Segments		Market		Ag. Value			
SPID Description	Area	Market	Ag. Value				
F1 Commercial Lot	13199F	23,100	0				

000283

Current Owner		Legal Description		Exemptions		Appraised			
TRAN, BINH (0454417) 13906 WINTER HARVEST CT HOUSTON, TX 77059		ABST 142 PAGE 2 PT OF LOTS 10 & 11, TEXAS CITY HEIGHTS RESUB OF LOTS 73, 77 TO 80		GGA, J05, S18, C31, RFL		221,240 Homestead Cap			
Situs Address		History Information		2008		2007		2006	
2311 25TH AVE N TEXAS CITY, TX 77590		Imp HS Imp NHS Land HS Land NHS Ag Mkt Ag Use Tim Mkt Tim Use HS Cap Assessed		\$0 \$196,790 \$0 \$23,100 \$0 \$0 \$0 \$0 \$219,890 \$221,240		\$196,790 \$196,790 \$23,100 \$23,100 \$0 \$0 \$0 \$0 \$219,890		\$196,790 \$196,790 \$23,100 \$23,100 \$0 \$0 \$0 \$0 \$219,890 \$219,890	
Sales		Builder/Attributes		Improvements		Value			
Date	Volume	Page	Volume	Year Built	Area	Year Built	Value	Year Built	Value
013-02-0822	005-56-1892			1921	960	1921	\$6,660	1984	\$6,660
EVANS, J L, Sr. LITTLE CHEIF MINT MARKET		Foundation Exterior Interior Roof Flooring		Commercial GPY - Canopy					
013-02-0822		Fireplace Year Built Rooms Bedrooms		C GPY - Canopy					
005-56-1892		Area Market Ag Value		Commercial GPY - Canopy					
13199F		23,100 23,100 0		960					
Commercial Lot		13199F		23,100		0			

Current Owner		Legal Description		Exemptions		Appraised									
TRAN, BINH (0454417) 13906 WINTER HARVEST CT. HOUSTON, TX 77059		ABST 142 PAGE 2 PT OF LOTS 10 & 11 TEXAS CITY HEIGHTS RESUB OF LOTS 73, 77 TO 80		GGA, J05, S18, C31, RFL		221,240 0									
Status Address		History Information		2008		2007		2006							
2311 25TH AVE N TEXAS CITY, TX 77590		Imp HS Imp NHS Land HS Land NHS Ag Mkt Ag Use Tim Mkt Tim Use HS Cap Assessed		\$0 \$196,790 \$0 \$23,100 \$0 \$0 \$0 \$0 \$219,890		\$196,790 \$0 \$23,100 \$0 \$0 \$0 \$0 \$219,890		\$196,790 \$0 \$23,100 \$0 \$0 \$0 \$0 \$219,890							
Sales		Building Attributes		Improvements		Area		Year Built		Value					
Date	Volume	Page	Seal/Name	Construction	Foundation	Exterior	Interior	Roof	Flooring	Type	Description	Area	Year Built	Year	Value
013-02-0822	005-56-1892		EVANS, J L, Sr. LITTLE CHEIF MINT MARKET							C	Commercial	11515	1984		\$18,300 \$18,300
Land Segments		Market		AG Value											
SP/B Description	Area	Market	AG Value												
F1 Commercial Lot	13199F	23,100	0												

000287

Current Owner		Legal Description		Exemptions		Appraised	
ZQS CORP INC (00032314) 2311 25TH AVE TEXAS CITY, TX 77590		PERSONAL PROPERTY-FURNITURE FIXTURES EQUIPMENT INVENTORY IN TEXAS CITY TX TCISD 2100 SF		GGA, J05, S18, C31, RFL		Homestead Cap	
Site Address		History Information					
2311 25TH AVE N TEXAS CITY, TX 77590		2009	2008	2007	2006		
Date	Volume	Page	Seller Name	Area	Year Built	Eff Year	Value
			TRAN, BINH				
			TRAN, ANTHONY				
			MINI MART #102				
			LITTLE CHIEF MINIT MARKET #2				
				\$24,455	\$30,715		\$32,995
				\$24,455	\$30,715		\$32,995
Building Attributes		Improvements		Area		Value	
Construction	Foundation	Exterior	Interior	Roof	Flooring	Type	Description
Land Segments		Market		Area		Ag Value	
SP/E	Description	Area	Market	Area	Ag Value	Area	Ag Value

000283

ATTACHMENT 2

- TCEQ Exit Interview Form

TCEQ EXIT INTERVIEW FORM: Potential Violations and/or Records Requested

Regulated Entity/Site Name	Mini Mart 102	TCEQ App ID No. RN No. (optional)	0039040
Investigation Type	ci	Purpose of Investigation	compliance
Regulated Entity Contact		Telephone No.	
Title		Fax No.	
		Date Contacted	6/16/10
		Date Faxed	

NOTICE: The information provided in this form is intended to provide clarity to issues that have arisen during the investigation process between the TCEQ and the regulated entity named above and does not represent final TCEQ findings related to violations. Any potential or alleged violations discovered after the date on this form will be communicated by telephone to the regulated entity representative prior to the issuance of a notice of violation or enforcement. Conclusions drawn from this investigation, including additional violations or potential violations discovered (if any) during the course of this investigation, will be documented in a final investigation report.

Issue		For Records Request: identify the necessary records the company contact and date due to the agency. For Alleged and Potential Violation issues include the rule in question with the clearly described potential problem. Other type of issues fully describe.	
No.	Type	Rule Citation (if known)	Description of Issue
102	PV	334.10	Copy of daily inventory + monthly reconciliation for March thru June 2010, chronic protection 3yr test, insurance, fire + leak detector test results, type of over fill, delivery certificate gasoline receipts for March thru June 2010, copy of PST Registration + Self-Certification form - remove water from all spill buckets
			731767-3603 phone 731767 3646 fax

Issue Type Can Be One or More of: AV (Alleged Violation), PV (Potential Violation), O (Other), or RR (Records Request)

Did the TCEQ document the regulated entity named above operating without proper authorization?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Did the investigator advise the regulated entity representative what continued operation is not authorized?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Document Acknowledgment. Signature on this document establishes only that the regulated entity (company) representative received a copy of this document and associated continuation pages on the date noted. If contact was made by telephone, document will be faxed to regulated entity; therefore, signature not required.

Investigator Name (Signed & Printed)	John	Date	6/16/10
Regulated Entity Representative Name (Signed & Printed)		Date	

If you have questions about any information on this form, please contact your local TCEQ Regional Office. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, call 512-239-3282.

ATTACHMENT 3

- Photographs

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
PETROLEUM STORAGE TANK REPORT**

Facility Registration No.	0039040	Facility Name	Mini Mart 102
---------------------------	---------	---------------	---------------

Photographic Documentation



Description:	Mini Mart 102, 2311 25 th Avenue, Texas City (Galveston County), Texas Photograph taken by Lisa E. Merritt on June 16, 2010.	1
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**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
PETROLEUM STORAGE TANK REPORT**

Facility Registration No.	0039040	Facility Name	Mini Mart 102
---------------------------	---------	---------------	---------------

Photographic Documentation

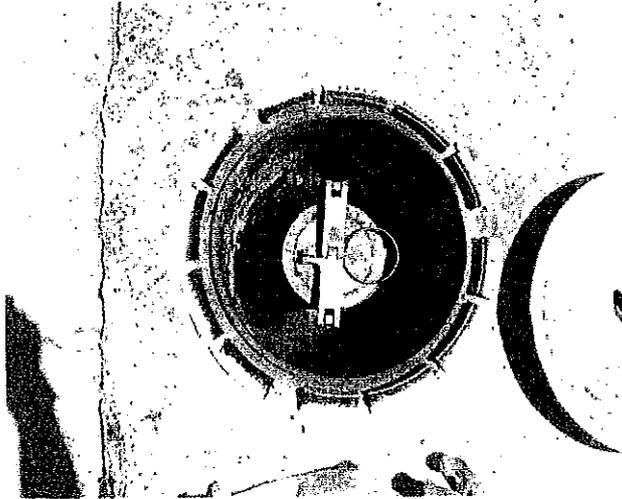


Description:	View of currently operating dispensers; previously tagged out of service during the January 12, 2010, investigation. Photograph taken by Lisa E. Merritt on June 16, 2010.	2	000297
---------------------	---	---	--------

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
PETROLEUM STORAGE TANK REPORT

Facility Registration No.	0039040	Facility Name	Mini Mart 102
---------------------------	---------	---------------	---------------

Photographic Documentation



Description:	Water in the spill bucket. Photograph taken by Lisa E. Merritt on June 16, 2010.	3
--------------	---	---

000000

000257

PST/39040/S

STZ

Reconciliation of Certified Mail

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Region 12-Houston

RECEIVED
MAR 3 1 2010

TCEQ
CENTRAL FILE ROOM
Database entry by: _____

Acknowledgment of receipt of TCEQ correspondence:

Affix (White Form) PS Form 3800 and Acknowledgment Receipt PS 3811 (Green Card) Here.

Mr. Alie M. Zulfiqar
ZQS Corporation, Inc.
2311 25th Avenue North
Texas City, Texas 77590-4610

7008 3230 0002 9593 1950

NOO / Alie/10

SENDER: COMPLETE THIS SECTION | **COMPLETE THIS SECTION ON DELIVERY**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

A. Signature X  Agent
 Addressee

B. Received by (Printed Name) Alie M. Zulfiqar C. Date of Delivery 2/22/10

D. Is delivery address different from item 1? Yes
If Yes, enter delivery address below: No

1. Article Addressed to: **RECEIVED**
PST/39040/S
Mr. Alie M. Zulfiqar
ZQS Corporation, Inc.
2311 25th Avenue North
Texas City, Texas 77590-4610
REGION 12



3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7008 3230 0002 9593 1950
(Transfer from service label)

008000

000301

¹ Revised 10/06 Appendix 5-D

Central Record File CODE: _____

ST2/ 39040 /60

Reconciliation of Certified Mail

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY Region 12-Houston

Database entry by: _____

Acknowledgment of receipt of TCEQ correspondence:

Affix (White Form) PS Form 3800 and Acknowledgment Receipt PS 3811 (Green Card) Here

7007 0710 0000 3758 1505

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To: <u>LM 39040/5/2/08</u> <u>MR BINH TRAN / MINH MART 102</u> Street, Apt. No., or PO Box No. <u>4210 FM 517 E</u> City, State, ZIP+4 <u>DICKINSON, TX 77539</u>	
PS Form 3800, August 2006 See Reverse for Instructions	

RECEIVED
JUN 11 2009

TCEQ
CENTRAL FILE ROOM 000303

408000

Attachment "ED-17"



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Aug-2010	Screening	11-Aug-2010	EPA Due	
	PCW	30-Aug-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ali Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a Mini Mart 102
Reg. Ent. Ref. No.	RN102714474
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	40187	No. of Violations	7	
Docket No.	2010-1326-PST-E	Order Type	Findings	
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	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$12,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>		
Compliance History	54.0% Enhancement	Subtotals 2, 3, & 7 \$6,750
Notes	Enhancement for three previous Notices of Violations ("NOVs") with same/similar violations; two NOVs for dissimilar violations; being a repeat violator, and the poor performer classification.	
Culpability	No 0.0% Enhancement	Subtotal 4 \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply		Subtotal 5 \$1,150
Economic Benefit	0.0% Enhancement	Subtotal 6 \$0
<small>Total EB Amounts</small>	\$1,789	
<small>Approx. Cost of Compliance</small>	\$2,706	<small>*Capped at the Total EB \$ Amount</small>
SUM OF SUBTOTALS 1-7	Final Subtotal	\$18,100
OTHER FACTORS AS JUSTICE MAY REQUIRE	9.8%	Adjustment \$1,768
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes	Enhancement to capture the avoided costs of compliance associated with violation nos. 3, 5, 6, and 7.	
	Final Penalty Amount	\$19,868
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty \$19,868
DEFERRAL	0.0% Reduction	Adjustment \$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	No deferral is recommended for Findings Orders.	
PAYABLE PENALTY		\$19,868

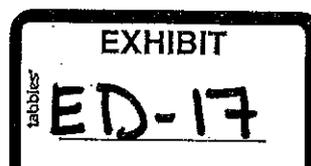
STATE OF TEXAS
COUNTY OF TRAVIS

AUG 30 2011

I hereby certify this is a true and correct copy of a Texas Commission on Environmental Quality (TCEQ) document, which is filed in the Records of the Commission Given under my hand and the seal of office.

Billy R. Wilson, Custodian of Records
Texas Commission on Environmental Quality

88000



00046!

Screening Date 11-Aug-2010

Docket No. 2010-1326-PST-E

PCW

Respondent All Zulfiqar d/b/a Mlnl Mart 102 and ZQS Corporal

Policy Revision 2 (September 2002)

Case ID No. 40187

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102714474

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>)	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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) 19%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for three previous Notices of Violations ("NOVs") with same/similar violations, two NOVs for dissimilar violations, being a repeat violator, and the poor performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 54%

131000

00046?

Screening Date 11-Aug-2010

Docket No. 2010-1326-PST-E

PCW

Respondent All Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/

Policy Revision 2 (September 2002)

Case ID No. 40187

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102714474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.54(b)(2)

Violation Description Failed to maintain all piping, pump, manways, tank access points, and ancillary equipment in a capped, plugged, locked, and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons. Specifically, the out-of-service super unleaded tank was not secured to prevent unauthorized access.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

92 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x.

Violation Base Penalty \$2,500

One quarterly event is recommended from the June 16, 2010 investigation date to the September 16, 2010 compliance date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes The Respondent came into compliance on September 16, 2010, after the NOE dated July 26, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$3,952

This violation Final Assessed Penalty (adjusted for limits) \$3,952

201000

000463

Economic Benefit Worksheet

Respondent: All Zulficar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a Mini Mart 102
Case ID No.: 40187
Reg. Ent. Reference No.: RN102714474
Media: Petroleum Storage Tank
Violation No.: 1

Percent Interest:	Years of Depreciation
5.0	15

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

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)	\$500	16-Jun-2010	16-Sep-2010	0.25	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost to secure the UST system. The Date Required is the Investigation date and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$6

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000464

Screening Date: 11-Aug-2010

Docket No.: 2010-1326-PST-E

PCW

Respondent: Ali Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a

Policy Revision 2 (September 2002)

Case ID No.: 40187

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102714474

Media [Statute]: Petroleum Storage Tank

Enf. Coordinator: Danielle Porras

Violation Number: 2

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

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

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent: 10%

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

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 1

155 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty: \$1,000

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$100

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

Notes: The Respondent came into compliance on November 18, 2010, after the NOE dated July 26, 2010.

Violation Subtotal: \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$11

Violation Final Penalty Total: \$1,581

This violation Final Assessed Penalty (adjusted for limits): \$1,581

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000465

Economic Benefit Worksheet

Respondent: Ali Zulfiqar d/b/a Mlnl Mart 102 and ZQS Corporation, Inc. d/b/a Mlnl Mart 102

Case ID No.: 40187

Req. Ent. Reference No.: RN102714474

Media Violation No.: 2
Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

Item Description: No commas or \$

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

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
Equipment			0.00	\$0	\$0	\$0	
Buildings			0.00	\$0	\$0	\$0	
Other (as needed)			0.00	\$0	\$0	\$0	
Engineering/construction			0.00	\$0	\$0	\$0	
Land			0.00	\$0	n/a	\$0	
Record Keeping System	\$500	16-Jun-2010	18-Nov-2010	0.42	\$11	n/a	\$11
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 date of compliance.

Avoided Costs

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

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

\$500	TOTAL	\$11
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000462

000466

Screening Date 11-Aug-2010

Docket No. 2010-1326-PST-E

PCW

Respondent Ali Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/e

Policy Revision 2 (September 2002)

Case ID No. 40187

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102714474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 334.7(d)(3) and 334.8(c)(5)(B)(ii)

Violation Description

Failed to notify the agency of any change or additional information regarding the underground storage tanks ("USTs") within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operator and the out of service status on the super unleaded tank. Also, failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the prior delivery certificate expired on January 31, 2009.

Base Penalty \$10,000

>> Environmental Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

656 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$2,000

Two annual events are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$200

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

Notes The Respondent came into compliance on November 18, 2010, after the NOE dated July 26, 2010.

Violation Subtotal \$1,800

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$114

Violation Final Penalty Total \$3,161

This violation Final Assessed Penalty (adjusted for limits) \$3,161

231000

000467

Economic Benefit Worksheet

Respondent: All Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a Mini Mart 102

Case ID No.: 40187

Req. Ent. Reference No.: RN102714474

Media: Petroleum Storage Tank
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	2-Jan-2010	18-Nov-2010	0.88	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to renew a delivery certificate by submitting a properly completed UST Registration and Self-Certification form. The Date Required is the beginning of the current year requiring a delivery certificate and the Final Date is the 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]	\$100	1-Jan-2009	1-Jan-2010	1.92	\$10	\$100	\$110
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost (\$100 per full year) to accurately prepare and submit an updated UST registration and obtain a TCEQ delivery certificate. The Date Required is 30 days prior to the expiration date of the delivery certificate and the Final Date is the last full year date.

Approx. Cost of Compliance

\$200

TOTAL

\$114

782000

000468

Screening Date 11-Aug-2010

Docket No: 2010-1326-PST-E

PCW

Respondent All Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a

Policy Revision 2 (September 2002)

Case ID No. 40187

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102714474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 4

Rule Cite(s)

30 Tex. Adm. Code § 334.8(c)(5)(A)(I) and Tex. Water Code § 26.3467(a)

Violation Description

Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Respondent received one delivery of fuel without a delivery certificate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

Number of violation days 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$500

One single event is recommended for accepting one fuel delivery.

Good Faith Efforts to Comply

10.0% Reduction

\$50

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

Notes The Respondent came into compliance on November 18, 2010, after the NOE dated July 26, 2010.

Violation Subtotal \$450

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$790

This violation Final Assessed Penalty (adjusted for limits) \$790

072000

000469

Economic Benefit Worksheet

Respondent All Zulfikar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a Mini Mart 102
Case ID No. 40187
Req. Ent. Reference No. RN102714474
Media Petroleum Storage Tank
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Economic benefit included in violation no. 3.

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

\$0

TOTAL

\$0

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000470

Screening Date 11-Aug-2010

Docket No. 2010-1326-PST-E

PCW

Respondent All Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/e

Policy Revision 2 (September 2002)

Case ID No. 40187

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102714474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 37.815(a) and (b)

Violation Description

Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
		X			10%
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 61

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$3,000

Three single events (one per tank) are recommended.

Good Faith Efforts to Comply

10.0% Reduction

\$300

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

Notes The Respondent came into compliance on August 16, 2010, after the NOE dated July 26, 2010.

Violation Subtotal \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,083

Violation Final Penalty Total \$4,742

This violation Final Assessed Penalty (adjusted for limits) \$4,742

572000

000471

Economic Benefit Worksheet

Respondent All Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a Mini Mart 102

Case ID No. 40187

Reg. Ent. Reference No. RN102714474

Media Petroleum Storage Tank

Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description No commas or \$

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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]	\$981	16-Jun-2009	16-Aug-2010	2.08	\$102	\$981	\$1,083
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for three petroleum USTs (\$327 per tank). The Date Required is one year prior to the investigation date and the Final Date is the date of compliance.

Approx. Cost of Compliance

\$981	TOTAL	\$1,083
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000472

Screening Date 11-Aug-2010

Docket No. 2010-1326-PST-E

PCW

Respondent All Zulfiqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/e

Policy Revision 2 (September 2002)

Case ID No. 40187

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102714474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 6

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

Violation Description

Failed to provide proper release detection for the pressurized piping associated with the USTs. Specifically, the Respondent did not conduct the annual piping tightness test. Also, failed to test the line leak detectors at least once per year for performance and operational reliability.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

64 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the June 16, 2010 investigation date to the August 19, 2010 compliance date.

Good Faith Efforts to Comply

10.0% Reduction

\$250

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

Notes

The Respondent came into compliance on August 19, 2010, after the NOV dated July 26, 2010.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$469

Violation Final Penalty Total \$3,952

This violation Final Assessed Penalty (adjusted for limits) \$3,952

273000

000473

Economic Benefit Worksheet

Respondent: All Zulfqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a Mini Mart 102

Case ID No.: 40187

Req. Ent. Reference No.: RN102714474

Media: Petroleum Storage Tank
Violation No.: 6

Percent Interest:	Years of Depreciation
5.0	15

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

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

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

Disposal			0.00	\$0	\$0	\$0	
Personnel			0.00	\$0	\$0	\$0	
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0	
Supplies/equipment			0.00	\$0	\$0	\$0	
Financial Assurance [2]			0.00	\$0	\$0	\$0	
ONE-TIME avoided costs [3]	\$75	16-Jun-2009	19-Aug-2010	2.09	\$8	\$75	\$83
Other (as needed)	\$350	16-Jun-2009	19-Aug-2010	2.09	\$37	\$350	\$387

Notes for AVOIDED costs

Estimated avoided cost of conducting line leak detector (\$75) and piping tightness (\$350) tests. The Dates Required are one year prior to the investigation date and the Final Dates are the dates of compliance.

Approx. Cost of Compliance \$425 **TOTAL** \$469

Screening Date 11-Aug-2010

Docket No. 2010-1326-PST-E

PCW

Respondent All Zulfqar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/e

Policy Revision 2 (September 2002)

Case ID No. 40187

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102714474

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Danielle Porras

Violation Number 7

Rule Cite(s) 30 Tex. 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, and free of liquid and debris.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				10%
Potential		x		

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

1 56 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended from the June 16, 2010 investigation date to the August 11, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$1,690

This violation Final Assessed Penalty (adjusted for limits) \$1,690

000475

000475

Economic Benefit Worksheet

Respondent All Zulficar d/b/a Mini Mart 102 and ZQS Corporation, Inc. d/b/a Mini Mart 102

Case ID No. 40187

Req. Ent. Reference No. RN102714474

Media Petroleum Storage Tank

Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				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	16-Apr-2010	16-Jun-2010	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting blmonthly inspections of the sumps, manways, overspill containers or catchment basins. The Date Required is 60 days before the investigation date and Final Date is the date of the investigation.

Approx. Cost of Compliance

\$100

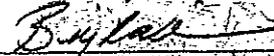
TOTAL

\$105

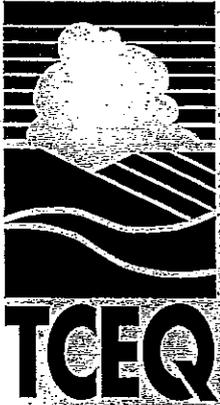
Attachment "ED-18"

STATE OF TEXAS
COUNTY OF TRAVIS JUN 20 2011

I hereby certify this is a true and correct copy of a
Texas Commission on Environmental Quality (TCEQ)
document, which is filed in the Records of the Commission
Given under my hand and the seal of office.



Billy R. Wilson, Custodian of Records
Texas Commission on Environmental Quality



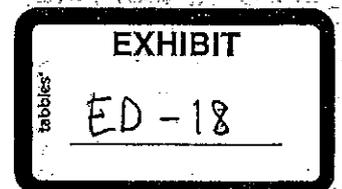
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Penalty Policy of the Texas Commission on Environmental Quality

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Enforcement Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



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Texas Commission on Environmental Quality
Penalty Policy

Second Revision, Effective September 1, 2002

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Introduction

This document describes the policy of the Texas Commission on Environmental Quality (TCEQ) regarding the computation and assessment of administrative penalties. Enforcement actions may result from serious or unresolved violations discovered during an investigation, or from information that concerns violations and is gained from meetings related to permits. An investigation is a review or evaluation of information by the executive director or executive director's staff or agent regarding the compliance status of a site, and may take the form of a site assessment, file or record review, compliance investigation, or other review or evaluation of information. This document does not address when an enforcement action is initiated, but rather how TCEQ staff are to evaluate violations for the purpose of recommending administrative penalties to the commission.

This policy includes a description of how violations are evaluated in terms of harm and severity and how any proposed penalties are determined. It includes a discussion of what adjustments may be made to the base penalty amount after the review of case-specific information and information concerning the respondent.

Statutory Authorizations

The commission has the authority to assess administrative penalties under a number of statutes located in the Texas Water Code (TWC) and the Texas Health & Safety Code (THSC). These statutes include: TWC Chapters 7, 11, 12, 13, and 16; and THSC Chapters 341 and 371. These statutes provide the commission with the authority to assess penalties and set forth the factors that the commission must consider in determining the amount of penalty to assess (see chart below)

Statutorily Authorized Penalties

Program	Statute/Chapter	Administrative penalties, per violation per day	Civil penalties, per violation per day
Air Quality	TWC/7	\$0-10,000	\$50-25,000
Edwards Aquifer	TWC/7	\$0-10,000	\$50-25,000
Industrial and Hazardous Waste	TWC/7	\$0-10,000	\$50-25,000
Land over MSW Landfills	TWC/7	\$0-10,000	\$50-25,000
Medical Waste	TWC/7	\$0-10,000	\$50-25,000
Municipal Solid Waste	TWC/7	\$0-10,000	\$50-25,000
Petroleum Storage Tank	TWC/7	\$0-10,000	\$50-25,000
Radioactive Substances	TWC/7	\$0-10,000	\$50-25,000
Subsurface Excavation	TWC/7	\$0-10,000	\$50-25,000

Toxic Chemical Release Reporting	TWC/7	\$0-10,000	\$50-25,000
Underground Injection Control	TWC/7	\$0-10,000	\$50-25,000
Underground Water	TWC/7	\$0-10,000	\$50-25,000
Waste Tires	TWC/7	\$0-10,000	\$50-25,000
Water Quality	TWC/7	\$0-10,000	\$50-25,000
All Occupational Licenses	TWC/7	\$0-2,500	\$50-5,000
On-Site Sewage Disposal	TWC/7	\$0-2,500	\$50-5,000
Used Oil	TWC/7	\$0-2,500	\$50-5,000
Used Oil Filter	TH&SC/371, TWC/7	\$0-2,500	\$100-500
Water Saving Performance Standards	TWC/7	\$0-2,500	\$50-5,000
Weather Modification	TWC/7	\$0-2,500	\$50-5,000
Water Rights	TWC/11	\$0-5,000	\$0-5,000
Dam Safety	TWC/12	N/A	\$0-5,000
Public Water Utilities	TWC/13	0-\$500	\$100-5,000
Levees	TWC/16	\$0-1,000	\$0-1,000
Public Water Supply	TH&SC/341	\$50-1,000	\$50-1,000

Computing the Base Penalty Amount

Violations will be broken into two types--those that harm or have the potential to harm the environment and/or human health and those that are related to documentation. Because of this differentiation, the TCEQ will have two separate penalty matrices -- the Environmental/Property and Human Health Penalty Matrix and the Programmatic Penalty Matrix.

In the Environmental/Property and Human Health Penalty Matrix, the base penalty amount for violations is developed by first examining two factors: release and harm (damage). Release means the emission or discharge of pollutants into the environment or a public drinking water system; the unauthorized diversion, taking or storage of state water; or the unauthorized change of a flood elevation of a stream. A violation will be evaluated to determine whether there has been a release and will be categorized as either an actual release or a potential release. Actual is defined as "existing in fact or reality; not merely potential." Potential is defined as "existing in possibility; capable of development into actuality."

The second factor to assess is the degree of harm (damage) that has affected or could have affected human health, property associated with a water right or construction of a levee and/or environmental receptors. These two factors are incorporated into a penalty matrix from which the base penalty is determined.

The commission will also evaluate the appropriate penalty based upon the size of the respondent's site. Where the EPA has designated "major" facilities/sources from "minor" facilities/sources, the agency will utilize that distinction for the respondent's sites. The definitions used for each program area are described below. Individuals and operators are considered minor respondents unless otherwise noted. Anything not explicitly covered in this section will be determined on a case-by-case basis.

Major/Minor Sources

Air

Major:

1. Any stationary facility that is a source of non-hazardous air pollutants which directly emits, or has the potential to emit, 100 tons per year or more of any air pollutant except in some non-attainment areas. In serious ozone nonattainment counties the threshold is 50 tons per year for volatile organic compounds (VOC) and nitrogen oxides (NOx). In severe ozone nonattainment counties the threshold is 25 tons per year for VOC and NOx.
2. For the hazardous air pollutants listed in the Federal Clean Air Act, a source that emits or has the potential to emit 10 tons per year or more of a single pollutant or 25 tons per year or more of any combination of pollutants.
3. For purposes of the penalty policy, the respondent's site is considered major if any source at the site is major, even if the violation(s) is not for that source.

Minor: Defined as any non-major source.

Edwards Aquifer

Major: A construction project disturbing 5 acres or greater.

Minor: A construction project disturbing less than 5 acres.

Industrial and Hazardous Waste

Major: A generator of more than 12,000 kg of hazardous waste on an annual basis. Commercial industrial facilities are majors.

Minor: A generator of 12,000 kg or less of hazardous waste on an annual basis.

Levees

Major: Levee or other improvement constructed in the 100 year floodway designed for flood protection for a 100 year flood or greater.

Minor: Levee or other improvement constructed in the 100 year floodway designed for flood protection for less than a 100 year flood.

Municipal Solid Waste

Major: A municipal solid waste landfill accepting more than 20 tons of municipal solid waste disposed of daily, based on an annual average.

Minor: A municipal solid waste landfill accepting less than 20 tons of municipal solid waste disposed of daily, based on an annual average.

Petroleum Storage Tank

Major: An underground storage tank facility that has a monthly throughput of more than 50,000 gallons.

Minor: An underground storage tank facility that has a monthly throughput of less than 50,000 gallons.

Public Water Supply

Major: A retail public utility serving more than 1,100 total connections.

Minor: A retail public utility serving 1,100 or fewer total connections. In addition, non-retail public water supply entities will be classified as minor unless specific circumstances exist that would cause them to be classified as majors.

Radioactive Waste

All facilities will be considered majors.

Underground Injection Control

All Class I and Class III facilities will be considered majors. Class V facilities will be determined on a site-specific evaluation.

Waste Tires

Major: A facility with greater than 500 tires.

Minor: A facility with less than or equal to 500 tires.

Water Quality (including Concentrated Animal Feeding Operations (CAFO))

Major: Municipal facilities with a daily average flow of 1 million gallons per day or greater are considered major facilities. Industrial/CAFO facilities are classified as major or minor facilities using a point scale used by EPA Region 6. The TCEQ Water Quality Division uses EPA Region 6's classification schedule to determine if a facility is defined as major or minor. All water quality permittees are designated as major or minor.

Minor: Municipal facilities with a daily average flow less than 1 million gallons per day. Industrial/CAFO facilities are classified upon permitting as major or minor as described above.

Water Rights

Major: A water right of greater than 5,000 acre-feet.

Minor: A water right of less than or equal to 5,000 acre-feet.

Environmental/Property and Human Health Matrix

	Major Harm	Moderate Harm	Minor Harm
	Major/Minor Respondents	Major/Minor Respondents	Major/Minor Respondents
Actual release	100% / 50%	50% / 25%	25% / 10%
Potential release	50% / 25%	25% / 10%	10% / 5%

Harm is categorized as major, moderate, or minor. Definitions for each category of harm are provided below.

Categories of Harm

	Actual Release	Potential Release
Major Harm	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation. Unauthorized diversion, taking, or storage of state water or an unauthorized change in flood elevation of a stream which deprives others of water, severely affects aquatic life, or results in a safety hazard, property damage, or economic loss.	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation. Potential for unauthorized diversion, taking, or storage of state water or an unauthorized change in flood elevation of a stream which would deprive others of water, severely affect aquatic life or result in a safety hazard, property damage, or economic loss.
Moderate Harm	Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation. Unauthorized diversion, taking, or storage of a significant amount of state water or a significant unauthorized change in flood elevation of a stream which does not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic loss.	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation. Potential for unauthorized diversion, taking, or storage of a significant amount of state water or a significant unauthorized change in flood elevation of a stream which would not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic loss.
Minor Harm	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation. Unauthorized diversion, taking, or storage of an insignificant amount of state water or an insignificant unauthorized change in flood elevation of a stream which does not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic loss.	Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation. Potential for unauthorized diversion, taking, or storage of an insignificant amount of state water or an insignificant unauthorized change in flood elevation of a stream which would not detrimentally affect aquatic life or result in a safety hazard, property damage, or economic loss.

The following discussion is to assist in the practical application of the Environmental, Property and Human Health Penalty Matrix. Release of "significant" and "insignificant" amounts of pollutants is defined in terms of the degree of impact on affected resources.

Assessment of Impact on Affected Resources

If sampling data are available and corresponding regulatory standards are applicable, an assessment of the impact should be based, at least in part, on such data and corresponding standards.

In the absence of such data and/or standards, the degree of impact should be evaluated in terms of the observed and documented effects the release has on the resource. Where both data and observed effects are available, both should be given due consideration in assessing impact. For releases where neither data nor direct observation are available, the degree of impact must be evaluated in light of scientific knowledge of the expected effects of such a release.¹

Definitions²

- An affected resource is human health, economic activity, normal use or enjoyment of property and/or other environmental resources (e.g., air quality, public or privately-owned water or land) that have been adversely impacted by a pollutant release.
- A release of a significant amount of pollutants is a release of pollutants in types or quantities that results in a loss of most or all of the quantity and/or quality of the affected resource(s).
- A release of an insignificant amount of pollutants is a release of pollutants in types or quantities that results in little or no loss of the quantity and/or quality of the affected resource(s).

Assessing Whether a Release Amount Is Significant or Insignificant

- Consider the release and the affected resource in light of the questions below.
- This is not a checklist or decision tree. The individual questions are not weighted, and must be considered as a whole.

¹ For example, VOC emissions are known to contribute to ozone formation, but cause no observable immediate impacts. A spill of liquid mercury may not contaminate soil or water, but is presumed to partially vaporize into the ambient air, where it may be harmful if inhaled.

² These definitions do not directly address pollutant concentrations or protective levels. As noted in the section Distinguishing Major Harm from Moderate or Minor Harm, if a release of a significant amount of pollutants causes pollutant concentration(s) to exceed levels that are protective of human health or environmental receptors, the release falls into the major harm category.

(1) The Released Pollutant

Questions to Ask	Factors to Consider
What was released?	Consider the available information about the substance's toxicity or other qualities that could adversely impact the affected resource. The greater the released material's toxicity, the more likely that a release will be a "significant amount."
How much was released?	Was the substance released in a quantity sufficient to cause the adverse effects associated with it? The larger the quantity released, the more likely that the release will be a "significant amount."

(2) The Affected Resource

Questions to Ask	Factors to Consider
What was the affected resource?	Consider the definition of an affected resource. Was human health or economic activity adversely impacted? If so, what and how? Were normal use or enjoyment of property and/or environmental resources adversely impacted? If so, what and how?
How adversely was the affected resource impacted?	Consider the sensitivity, value and/or usability of the affected resource, and any data or scientific knowledge that assesses the actual or expected impact of the release. The more sensitive, valuable and/or usable the resource, the more likely that a release that impacts the resource will be considered a "significant amount."

Distinguishing Major Harm from Moderate or Minor Harm

For the release (or potential release) of pollutants to be considered major, the pollutant must be present in concentrations that exceed levels that are protective of human health or environmental receptors, and the pollutant must be present in significant amounts as defined in this guidance document.

The following table summarizes the criteria for Major, Moderate and Minor harm.

Harm	significant amounts of pollutants	exceeds levels that are protective
Major	Yes	Yes
Moderate	Yes	No
Minor	No	No

"significant amount" as defined in the definitions

In the Programmatic Penalty Matrix, violations will be categorized as major, moderate, or minor, based upon the degree of noncompliance. Programmatic violations include, for example, a failure to submit reports, a failure to maintain records, or a failure to obtain a permit or other authorization.

Programmatic Penalty Matrix

Major	Moderate	Minor
Major/Minor Respondent	Major/Minor Respondent	Major/Minor Respondent
25% / 10%	10% / 5%	1% / 1%

In the context of the penalty matrix, programmatic major means that all or almost all (greater than 70 percent) of a rule or permit requirement is not met, programmatic moderate means that much (30 to 70 percent) of a rule or permit requirement is not met, and programmatic minor means that most, but not all (at least 70 percent), of a rule or permit requirement is met. One exception to the use of this matrix is that the falsification of records will be assessed at 100 percent of the statutory maximum penalty.

Calculation: Each violation included in the enforcement action will be evaluated and categorized as actual release, potential release, or programmatic and then as major, moderate, or minor. The appropriate percentage (see the matrices above) will be multiplied by the highest penalty amount allowed by the applicable statute (see discussion in "Statutory Authorizations") to determine the penalty amount for each specific violation. The total of all the violation penalty calculations will be the base penalty amount.

Exception regarding rock crushers and concrete batch plants: TEX. WATER CODE § 5.5145(b) states, "The amount of the penalty for operating a rock crusher or a concrete batch plant that performs wet batching, dry batching, or central mixing, that is required to obtain a permit under Section 382.0518, Health and Safety Code, and that is operating without the required permit is \$10,000. Each day that a continuing violation occurs is a separate violation." Under these circumstances, the required statutory limit of \$10,000 will be utilized for every day of the unauthorized activity.

Determining the Number of Violation Events

The number of violation events that will be assessed a penalty depends on the number of times the violation is observed, the specific requirement violated, the duration of the violation, and other case information.

Certain violations will typically be considered discrete events. For these violations, one penalty event will be assessed for every documented observation. Discrete violations are situations that are observed and documented during an investigation - a discrete interval in time. These violations involve practices or actions that do not occur continuously. If they recur, they do so in individual instances that are separate in time. Examples of violations that would be discrete events are the failure to submit annual reports, the failure to collect or report monitoring data, the failure to perform a hazardous waste determination where required, and the failure to show a certificate of self-certification prior to accepting a fuel drop. For discretely occurring violations, one penalty event will be assessed for every documented observation of the noncompliance (for example, for each sample analysis documenting a violation).

Other violations are considered to be continuing. These violations are not constrained by documented observations of the noncompliance. Examples of violations that would be considered to be continuing are the exceeding of permitted discharge or emission limits, groundwater contamination, unauthorized discharges/releases, endangerment, the commingling of good and bad water in a public water supply, operating without a required permit, and other such violations. For continuing violations, the number of

events will be linked to the level of impact of the violation by considering the violation as if it recurred with the frequency shown in the chart below.

Continuing Violations

	Harm or Severity	Number of Events
Actual Releases	Major	Up to daily
	Moderate	Up to monthly
	Minor	Up to quarterly
Potential Releases	Major	Up to monthly
	Moderate	Up to quarterly
	Minor	Single event
Programmatic	Major	Up to daily
	Moderate	Up to quarterly
	Minor	Single event

The duration of events concerning continuous violations, for the purposes of preparing an enforcement action, may begin with the initial date of noncompliance with a requirement, rule, or permit and extend up to the time that the enforcement documents are prepared.

In practice, continuous violations will be assessed beginning with the documented date of noncompliance (i.e., sample results, record review) or the date that the respondent "should have known," whichever is appropriate, as the beginning point. The respondent is always considered knowledgeable of permit conditions.

The date the respondent returned to compliance or the enforcement screening date, whichever is appropriate, will be the endpoint for the assessed events. Utilizing this date will assure that no one will be impacted by the order in which cases are prioritized within the agency.

The duration of events will be revised, as appropriate, to reflect extended noncompliance when cases fail to settle expeditiously and/or prior to referral to the State Office of Administrative Hearings. Note: Discrete violations are not revised because they are considered single events.

To determine the number of events, divide the appropriate time frame into the duration of the violation. For this determination, any part of a day equals a "day," any part of a month equals a "month," any part of a quarter equals a "quarter." For example an actual minor that is assessed as a quarterly event will have 5 quarters for a violation that continued for 13 months.

Calculation: Multiply the base penalty amount by the number of penalty events determined for the violation being considered. Do this step for each violation included in the enforcement action. Total the base penalty amounts to obtain subtotal 1.

Evaluating Adjustments to the Penalty Amount

Any adjustments to the penalty amounts will be made after a base penalty multiplied by the number of events is established for all violations included in the enforcement action. Adjustments to the penalty amount may be made based upon the following factors relating to the respondent:

- compliance history
- repeat violator
- culpability
- good-faith effort to comply
- economic benefit gained through noncompliance
- compliance history classification
- other factors as justice may require

Compliance History

Staff will develop a compliance history on the respondent utilizing the format found in 30 TEX. ADMIN. CODE § 60.1, no matter what program area is under consideration in the enforcement action. Based upon the compliance history, staff will determine the penalty enhancement for the site, mobile unit, or individual who is required to be registered, certified, or licensed by TCEQ prior to performing certain activities, by evaluating the number of each of the components, and totaling the percentage adjustments. If the total is less than zero, then the penalty enhancement will default to zero. The percentage adjustment for each type of component is specified in the following table:

Compliance History Enhancement For the Site Under Enforcement

Component	Percentage Adjustment	Plus or minus Adjustment?
Written NOV's with same or similar violations as those in the current enforcement action	5% for each NOV	plus
Other written NOV's	2% for each NOV	plus
Any agreed final enforcement orders containing a denial of liability	20% for each order	plus
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	25% for each order	plus
Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government	30% for each court judgment and consent decree	plus

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.	35% for each court judgment and consent decree.	plus
Any criminal convictions of this state or the federal government.	50% for each count	plus
Final enforcement orders, court judgments, and criminal convictions relating to violations of environmental laws of other states	N/A	N/A
Chronic excessive emissions events	25% for each event	plus
Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995	1% for each audit	minus
Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995	2% for each audit for which violations are disclosed	minus
Environmental management systems in place for one year or more	10%	minus
Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	10%	minus
Participation in a voluntary pollution reduction program	5%	minus
Early compliance with, or offer of a product that meets future state or federal government environmental requirements	5%	minus

Calculation: Multiply subtotal 1 by the total percentage adjustment to obtain subtotal 2.

Repeat Violator

When a respondent is designated as a repeat violator at the site which is under enforcement, then the recommended administrative penalty for the case will be enhanced by 25 percent. Repeat violator designation will be determined according to 30 TEX. ADMIN. CODE § 60.2(d).

Calculation: Multiply subtotal 1 by 25 percent or 0 percent to obtain subtotal 3.

Culpability

In assessing culpability, staff will determine whether the respondent could have reasonably anticipated and avoided the violation(s). This determination will be made on a site-specific basis and will examine a five-year history (the five-year period preceding the date of initiating an enforcement action with an initial settlement

offer or the filing date of an Executive Director's Preliminary Report (EDPR), whichever occurs first). Culpability will be determined for mobile units, and for individuals for those who are required to be registered, certified, or licensed by TCEQ prior to performing certain activities, rather than a site-specific basis. Staff will determine whether documentation that indicates culpability exists (e.g., contractor notes; agency letters; respondent notes; investigations at other locations [for mobile units and for individuals who are required to be registered, certified, or licensed by TCEQ prior to performing certain activities]).

If culpability exists, then 25 percent will be added to the penalty amount; otherwise, nothing will be added to the penalty amount.

Note: Other forms of culpability, such as notices of violation (NOVs) and orders, are included in compliance history.

Calculation: Multiply subtotal 1 by 25 percent or 0 percent as appropriate to obtain subtotal 4.

Good-Faith Effort to Comply

In assessing good-faith efforts to comply, staff will consider the respondent's efforts to return the site to complete compliance with all applicable rules and regulations cited in the enforcement action. Thus, any reduction will be applied to all violations and events. The analysis of good-faith efforts involves two factors: the timeliness of the respondent's action(s) and the quality of that action(s). Accordingly, the respondent will be given credit for timeliness, quality, or both.

Timeliness is defined by the point when the respondent completed action to correct the violations. The following are the two scenarios that will be considered:

- Corrective actions are completed before there is an executive director's preliminary report (EDPR) or an initial settlement offer, but the actions are completed after the issuance of an NOV.
- Corrective actions are completed as soon as violations are identified and before the issuance of an NOV.

Quality is defined as the degree to which the respondent took action. The two categories of quality are extraordinary and ordinary. Extraordinary is defined as action taken by the respondent which goes beyond what would be expected under the rules. Ordinary is defined as action taken by the respondent to correct the violations as expected under the rules. Good-faith effort will not be considered for cases involving only discrete violations as defined by this policy.

The following matrix describes how much of a reduction will be given for good-faith efforts. The maximum reduction is 50 percent. Good faith efforts will only be considered if the respondent has achieved compliance with applicable rules and regulations cited in the enforcement action.

Percentage Reductions for Timeliness:

Quality of Action	Action Before NOV	Action Between NOV & EDPR/Settlement Offer
Extraordinary	50%	25%
Ordinary	25%	10%

Calculation: Multiply subtotal 1 by the appropriate good-faith percentage reduction to obtain subtotal 5.

Economic Benefit

Economic benefit is defined as monetary gain derived from a failure to comply with TCEQ rules or regulations. Economic benefit may include any or all of the following: (1) the return a respondent can earn by delaying the capital costs of pollution control equipment; (2) the return a respondent can earn by delaying a one-time expenditure; and (3) the return a respondent can earn by avoiding periodic costs.

To determine whether a respondent has gained an economic benefit (during the alleged violation period), staff must evaluate the following issues for each violation:

1. Did the respondent avoid or delay capital outlay for item(s) specifically required by a permit or rule that is applicable to the facility or unit in question?
2. Did the respondent gain any interest by avoiding or delaying capital outlay for item(s) specifically required by a permit or rule that is applicable to the facility or unit in question?
3. Did the respondent gain an economic advantage over its competitors?
4. Did the respondent avoid or delay disposal, maintenance, and/or operating costs?
5. Did the respondent receive increased revenue due to noncompliance?
6. Did the respondent avoid the purchase of financial assurance for item(s) specifically required by a permit or rule that is applicable to the facility or unit in question?

If the answer is "yes" to any of the above questions, then staff will estimate the overall economic benefit gained. Only capital expenditures, one-time nondepreciable expenditures, periodic costs, and interest gained will be evaluated in the calculation of economic benefit.

Capital expenditures will include all depreciable investment outlays necessary to achieve compliance with the environmental regulation or permit. Depreciable capital investments are usually made for things that wear out, such as buildings, equipment, or other long-lived assets. Typical environmental capital investments include groundwater monitoring wells, stack scrubbers, and wastewater treatment systems.

One-time nondepreciable expenditures include delayed costs the respondent should have made earlier (to prevent the violations) which need only be made once and are not depreciable (i.e., do not wear out). Such an expenditure could be purchasing land, setting up a record-keeping system, removing illegal discharges of dredged and fill material, disposing of soil from a hazardous waste site, or providing initial training to employees.

Periodic costs are recurring costs associated with operating and maintaining the required pollution control equipment.

Once the economic benefit has been estimated and totaled for all violations included in the enforcement actions, it should be compared to the following criteria, and the penalty amount will be increased accordingly. The economic adjustment factor will be capped so the adjustment amount does not exceed the economic benefit gained.

Economic Benefit Matrix

% Adjustment	Dollar Range of Benefit
None	Less than \$15,000
50%	Equal to or greater than \$15,000

Calculation: Determine the estimate of the economic benefit of each violation included in the enforcement action, add all the economic benefit totals, then determine the range that the estimate fits for each violation, and multiply the associated percentage, based upon culpability, by the base penalty amount to obtain subtotal 6.

Compliance History Classification

The administrative penalty will be modified, based upon the classification of the person who is the respondent in the enforcement action, as specified in the following matrix. Compliance history classification of the respondent will be determined according to 30 TEX. ADMIN. CODE § 60.2(f).

Compliance History Classification Adjustment

Respondent's Classification	Percentage Adjustment
High Performer	- 10%
Average Performer	0% (no adjustment)
Poor Performer	+ 10%

Calculation: Multiply subtotal 1 times the appropriate percentage to obtain subtotal 7.

A final subtotal is determined by adding subtotal 1, subtotal 2, subtotal 3, subtotal 4, and subtotal 6, subtracting subtotal 5, and adding or subtracting, as appropriate, subtotal 7.

Other Factors That Justice May Require

The staff may recommend adjustment of the penalty amount, on a case-by-case basis, upon a consideration of factors unique to the situation. This adjustment may result in an increase or decrease of the penalty amount.

A downward adjustment due to "other factors that justice may require" may be appropriate when, for example, the TCEQ is notified of the violation(s) by the respondent. If the notification is not required by statute, permit, or rule, staff may recommend a downward adjustment.

A downward adjustment due to "other factors that justice may require" may be appropriate when, for example, a respondent has purchased a noncompliant water or wastewater facility as part of regionalization of service. Normally, respondents inherit the compliance history of purchased facilities but there may be circumstances where the resulting penalty does not reflect the efforts of the new provider and staff may recommend a downward adjustment.

An upward adjustment due to "other factors that justice may require" may be appropriate when, for example, a respondent who owns a station that conducts state inspections issued a motor vehicle inspection certificate for a motor vehicle without conducting all emission tests. If it is determined that the failure to conduct required emission testing was intentional, staff may recommend an upward adjustment.

Calculation: Multiply the final subtotal by the recommended percentage to obtain the final penalty amount.

Adjusted Total Penalty Amount Recommendation

The final penalty amount will be checked against the minimum and maximum penalty amounts allowed by statute per violation per day in order to obtain the final assessed penalty.

Attachment "ED-22"

JUN 20 2007

I hereby certify this is a true and correct copy of a
Texas Commission on Environmental Quality (TCEQ)
document, which is filed in the Records of the Commission
Given under my hand and the seal of office.



Billy R. Wilson, Custodian of Records
Texas Commission on Environmental Quality

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: John Sadler, Deputy Director, OCE
Matthew R. Baker, P.E., Director, Enforcement
Division

Date: July 24, 2007

From: Glenn Shankle, Executive Director 

Subject: Revisions to the Penalty Calculation Worksheets; Speculation of emission
events and recovery of avoided costs of compliance

In an effort to ensure that the calculation of administrative penalties is a transparent process, I'm directing that you revise the current penalty calculation worksheet such that the penalty first be calculated at the statutory maximum and then reduced and/or escalated based on culpability, compliance history, good faith efforts to comply, economic benefit, and other factors as justice may require. The duration of the penalty event will be calculated pursuant to the Commission's current penalty policy, taking into account the nature and gravity of the alleged violation. All proposed penalties should be of an amount necessary to deter future noncompliance.

In order to ensure that proposed penalties are commensurate to the violations alleged, I am also asking that you institute the following as the situation warrants:

1. When calculating penalties for significant emission events that occur over a short duration, speculation of that event is an appropriate means to ensure that the calculated penalty is of an amount adequate to address the violation and provide an appropriate deterrent effect; and
2. In cases where a respondent has realized an economic benefit by avoiding the costs associated with compliance, it is appropriate to escalate the penalty through the use of "Other Factors as Justice May Require" in order to offset that benefit.

cc: Mark Vickery, Deputy Executive Director
Stephanie Bergeron Perdue, Deputy Director, OLS
Sonia Ralls, Executive Assistant to Executive Director
Kerri Rowland, Special Counsel to Executive Director
Mary Risner, Director, Litigation Division

EXHIBIT

tabbies

ED-22

000543

Attachment "ED-23"

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Stephanie Frazee, Attorney
Litigation Division

Date: August 25, 2011

Thru: *PN* Rob Norris, Senior Financial Analyst
Revenue Operations, MC-184

From: Paige Seidenberger, Financial Analyst *PSB*
Revenue Operations, MC-184

Subject: Ali Zulfiqar d/b/a Mini Mart 102
and ZQS Corporation, Inc. d/b/a Mini Mart 102
Financial Review
Docket No. 2010-1326-PST-E; Enforcement Case No. 40187

Billy R. Wilson
Billy R. Wilson, Custodian of Records
Texas Commission on Environmental Quality

I hereby certify this is a true and correct copy of a Texas Commission on Environmental Quality (TCEQ) document, which is filed in the Records of the Commission Given under my hand and the seal of office.

STATE OF TEXAS
COUNTY OF TRAVIS

AUG 26 2011

CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

We have reviewed the financial information submitted by Ali Zulfiqar d/b/a Mini Mart 102 ("Mr. Zulfiqar") and ZQS Corporation, Inc. d/b/a Mini Mart 102 ("ZQS") for the purpose of evaluating the financial capabilities of Ace to pay an administrative penalty of \$21,308. Compliance issues are resolved. We recommend that the full amount of the penalty be paid in 36 monthly installments of approximately \$592.

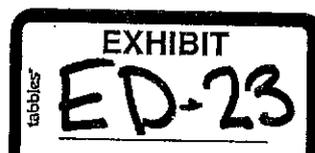
ZQS Corporation, Inc.

ZQS was formed in 2008 and is owned by Ali Zulfiqar. The corporation owns and operates a convenience store with a check cashing service and retail sales of gasoline located at 2311 25th Avenue, Texas City, Galveston County. The real estate is leased from the prior store owner.

Mr. Zulfiqar's investment in the store is \$66,000 in the form of a shareholder loan. The store reported losses on the 2008 and 2009 tax return. The CPA prepared financial statement for 2010 reports a \$17,600 profit and an \$18,700 loss for the 5 months ending 5/31/11. Salary expense for 2011 is over reported by \$15,000 on the financial statement. Additionally, inventory levels have been reported at a constant level since the purchase of the store. The accuracy of the financial information is questionable due to the misreported salary expenses. Also, without accurate inventory counts, profits cannot be accurately determined.

For the four financial reporting periods, 12/31/08, 12/31/09, 12/31/10, and 5/31/11, the company reported negative cash flows in three of the four periods. On a cumulative basis, the average cash flow for the 41 months is negative. The corporation recently settled a lawsuit for \$10,000. Monthly installment payments of \$1000 were made with the final payment ending in July 2011.

318000



000545

Ali Zulfiqar d/b/a Mini Mart 102
ZQS Corporation, Inc. d/b/a Mini Mart 102
Financial Review
Page 2

The payments were the result of a settlement of a lawsuit over delivery of fuel.

Ali Zulfiqar

Mr. Zulfiqar reports minimal assets including a checking account and two vehicles. Both the Wells Fargo car loan and the credit card payments are paid by the business. The Zulfiqars are employed by ZQS and salaries for 2010 were \$36,000. The tax returns for each of the past two years report \$6,000-\$7,000 in tax refunds. Total cash inflow is estimated to be approximately \$42,000. Annual personal expenses reported being paid by personal funds are \$36,000 annually, resulting in a \$6,000 net personal cash flow. Additional personal expenses are paid through the business. The excess annual personal cash flow of approximately \$6,000 can be applied towards the penalty payment.

Recommendation

Due to the questionable accuracy of the business financial statements, we are unable to recommend that a deferral of any portion of the penalty for ZQS. We have identified \$6,000 annually that can be paid from personal cash flow. We recommend monthly payments of approximately \$592 for 36 months to pay the entire penalty.

Attachment "ED-26"

Att

LISA MERRITT

From AL

Mini Mart 152
(281) 248-7646

UST SERVICES, INC.
Cactus Environmental Systems
1141 Brittonmoore Road
HOUSTON, TEXAS 77043
713-457-4244 • 800-68-TANKS

NAME		MINI MART #102			
ADDRESS		2311-25th ST		DATE	
		PH. NO.		08-19-2010	
SOLD BY	CASH	D.O.D.	CHARGE	ON ACCT.	MOSE-RETD.
PAID OUT					
QTY.	DESCRIPTION			PRICE	AMOUNT
1	STAGE 1 TEST ANNUAL TEST			225 ⁰⁰	225 ⁰⁰
2	PRODUCT LINE 9 LEAK DETECTOR TEST			75 ⁰⁰	150 ⁰⁰
FUEL CHARGE				8⁰⁰	8⁰⁰
PAID CK #1941 GJK \$203.66 \$375.00					
RECEIVED BY				TAX	66
				TOTAL	303.66
ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL.					

STATE OF TEXAS
COUNTY OF TRAVIS

I hereby certify this is a true and correct copy of a Texas Commission on Environmental Quality (TCEQ) document, which is filed in the Records of the Commission Given under my hand and the seal of office.

B. Wilson AUG 31 2011

Billy R. Wilson, Custodian of Records
Texas Commission on Environmental Quality

No. 002734

GP-159-2
PRINTED IN U.S.A.

Thank You

ED-26

PHILLIP'S WASTE OIL NON-HAZARDOUS MANIFEST

GENERATOR

Generator Phillip's Manifest Return Address _____
 Shipping Location _____
 Address 2311 25 Ave N _____
Texas Pcty H 77590 _____
 Phone 281 248 1764 Phone _____

Description of Waste Materials	Total Quantity	Unit of Measure	Container Type	Unit Price	Extension
<u>Brown oil water</u>	<u>1575</u>	<u>Gal</u>	<u>Tank</u>		<u>250.00</u>

I hereby certify that the above described materials are not hazardous wastes as defined by 40 CFR, Part 261 or any applicable state law or regulation, have been fully and accurately described, classified and packaged, and are in proper condition for transportation according to applicable law and regulations.

Generator Authorized Agent Name [Signature] Signature [Signature] Delivery Date 9-16-10

TRANSPORTER

Transporter Name Phillip's Waste Oil EPA# TXD987991411
 Address 11013 Fuqua St. #336 State ID# A85656
Houston, TX 77089 832-527-1517

I hereby acknowledge receipt of the above described materials for transport from the generator shipping location listed above.

Driver Signature [Signature] Shipment Date 9-16-10 Driver Signature [Signature] Delivery Date 9-16-10

DESTINATION

Site Name Phillip's Waste Oil EPA ID # TXD987991411
 Address 62291 Osprey STATE ID # A85656
Boston Twp Phone Number 832-527-1517

I hereby acknowledge receipt of the above described materials.

Name of Authorized Agent (Print) [Signature] Driver Signature [Signature]

Att Lisa DERRITT



Texas Commission on Environmental Quality
Petroleum Storage Tank Program

Delivery Certificate

(Not Transferable)

This hereby certifies that the underground storage tanks (USTs) at the facility identified herein have been self-certified as compliant with all technical and administrative standards for fuel delivery purposes. This certificate verifies self-certification only and does not certify that the listed USTs are in compliance with TCEQ's Technical and Administrative Requirements.

Owner/Operator # 071426

ZULFGAR ALL
2314 25TH AVE N
TEXAS CITY, TX 77590

Facility #: 0039040

MINI MART 462
2314 25TH AVE N
TEXAS CITY, TX 77590

Expire Last Day of
June 2011
TCEQ Form 155-92010 (06/07/02)

M. P. [Signature]
for the
Comptroller

Self-Certified USTs 1, 2

CERTIFICATE OF INSURANCE - TEXAS

NAME: See Schedule of Facilities Endorsement (E038)

ADDRESS: See Schedule of Facilities Endorsement (E038)

POLICY NUMBER: PP3641170
ENDORSEMENT (if applicable):

PERIOD OF COVERAGE: 08/16/2010 to 08/16/2011

NAME OF INSURER: Colony Insurance Company

ADDRESS OF INSURER: 6720 Stony Point Parkway, Suite 300
Richmond, Virginia 23235
Tel. (800) 577-6614

NAME OF INSURED: Mini Mart 102
ADDRESS OF INSURED: Ali Zulfiqar, dba
2311 25th Ave
Texas City, TX 77590

CERTIFICATION:

1. Colony Insurance Company, the "Insurer", as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s):

See Schedule of Facilities Endorsement (E038)

For taking corrective action and compensating third parties for "bodily injury" and "property damage" caused by either sudden accidental releases or non-sudden accidental releases or accidental releases, in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy arising from operating the Underground Storage Tank(s) identified above.

The Limits of Liability are \$1,000,000 Each Occurrence and \$1,000,000 Annual Aggregate Policy Limit, exclusive of legal defense costs. This coverage is provided under PP3641170. The effective date is 08/16/2010.

2. The insurer further certifies the following with respect to the insurance described in paragraph 1:
 - a. Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this certificate applies.
 - b. The insurer is liable for the payment of amounts within any deductible applicable to the policy, to the provider of corrective action or a damaged third-party, with a right of

POLICY NUMBER: PP3641170

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SCHEDULE OF FACILITIES ENDORSEMENT
STORAGE TANK POLLUTION LIABILITY COVERAGE

It is agreed that coverage is provided for the "Storage Tank Systems" at the "Scheduled Facility (ies)" listed below:

<i>Scheduled Facility(ies)</i>	<i>Number of Storage Tank System(s)</i>
2311 25 th Ave Texas City, TX 77590 FAC ID# 39040	2 Underground