

Order Type:
Agreed Order

Media:
PST

Small Business:
No

Location(s) Where Violation(s) Occurred:
Facility 1: 6107 West Parmer Lane, Austin, Travis County (RN101992360); and
Facility 2: 3817 Williams Drive, Georgetown, Williamson County (RN105829030)

Type of Operation:
two underground storage tank ("UST") systems and two convenience stores with retail sales of gasoline

Other Significant Matters:
Additional Pending Enforcement Actions: Yes, 2019-0852-PST-E; 2020-0767-PST-E; and
2020-0932-PST-E
Past-Due Penalties: None
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: July 21, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$29,625

Total Paid to General Revenue: \$29,625

Total Due to General Revenue: \$0

Compliance History Classifications: (RN101992360):

Person/CN - Satisfactory
Site/RN - High

Compliance History Classifications: (RN105829030):

Person/CN - Satisfactory
Site/RN - High

Major Source: RN101992360 PCW 1 of 2: Yes
RN105829030 PCW 2 of 2: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: July 22, 2019

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

Date(s) of NOE(s): RN101992360: September 16, 2019
RN105829030: September 20, 2019

Violation Information

Facility 1: RN101992360

1. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].
2. Failed to assure that all installed spill and overflow prevention devices are maintained in good operating condition [TEX. WATER CODE § 26.3475(c)(2) and TEX. ADMIN. CODE § 334.51(a)(6)].
3. Failed to maintain all components of a UST system electrically isolated from the corrosive elements of the surrounding soil, backfill, groundwater or other water, and from other metallic components [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(b)(2)].
4. Failed to provide written notice of any change or additional information to the agency regarding the USTs within 30 days from the date of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(1)(F) and (d)(3)].

Facility 2: RN105829030

5. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring for USTs installed on or after January 1, 2009 [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Facility 1: RN101992360

1. Implemented a release detection method for the USTs which will detect a release at a frequency of at least once every 30 days as of April 4, 2020.
2. Replaced the spill bucket for the super unleaded UST on September 19, 2019.
3. Removed water from the sumps for the regular unleaded, premium, and diesel fuel submersible turbine pumps, and the sump under the dispenser for the diesel fuel tank on July 22, 2019.

Technical Requirements:

1. Within 30 days:
 - a. Begin conducting interstitial monitoring at Facility No. 2 in a manner that will detect a release at a frequency of at least once every 30 days;
 - b. Begin conducting bimonthly inspections of all sumps, manways, overspill containers, and catchment basins at Facility No.1; and
 - c. Submit an updated UST registration and self-certification form to reflect the current corrosion protection methods for the USTs at Facility No. 1.
2. Within 45 days submit written certification to demonstrate compliance with Technical Requirement Nos. 1.a. through 1.c.

Litigation Information

Date Petition(s) Filed: May 12, 2023
Date(s) of Service: May 17, 2023
Settlement Date: June 13, 2023

Contact Information

TCEQ Attorneys: Cynthia Sirois, Litigation Division, (512) 239-3400
Sheldon Wayne, Public Interest Counsel, (512) 239-6363
TCEQ Litigation Agenda Coordinator: Katherine McKenzie, Litigation Division, (512) 239-2575
TCEQ Enforcement Coordinator: Ken Moller, Enforcement Division, (512) 239-6111

TCEQ Regional Contact: Elijah Gandee, Austin Regional Office, (512) 339-2929

Respondent Contact: CIRCLE K STORES INC, P.O. Box 52085, Phoenix, Arizona 85072-2085

Respondent's Attorney: John M. Pearce, Fennemore Craig PC, 2394 East Camelback Road, Suite 600,
Phoenix, Arizona 85016

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	23-Sep-2019	Screening	2-Oct-2019	EPA Due	
	PCW	14-Jan-2022				

RESPONDENT/FACILITY INFORMATION

Respondent	CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")	
Reg. Ent. Ref. No.	RN101992360	
Facility/Site Region	11-Austin	Major/Minor Source
		Major

CASE INFORMATION

Enf./Case ID No.	58423	No. of Violations	4
Docket No.	2019-1448-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ken Moller
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$22,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes	No adjustment for compliance history.
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Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$375
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$85	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$2,640	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$22,125
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0% Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$22,125
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$22,125
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DEFERRAL	0.0% Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes	Deferral not offered for non-expedited settlement.
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PAYABLE PENALTY	\$22,125
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Screening Date	2-Oct-2019	Docket No.	2019-1448-PST-E	PCW
Respondent Case ID No.	CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")			<i>Policy Revision 4 (April 2014)</i>
Reg. Ent. Reference No.	58423			<i>PCW Revision March 26, 2014</i>
Media [Statute]	RN101992360			
Enf. Coordinator	Petroleum Storage Tank			
	Ken Moller			

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date	2-Oct-2019	Docket No.	2019-1448-PST-E	PCW
Respondent	CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	58423			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101992360			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Ken Moller			

Violation Number

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

Violation Description Failed to monitor the underground storage tanks ("USTs") in a manner which will detect a release at a frequency of at least once every 30 days.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="30.0%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the July 22, 2019 investigation date to the October 2, 2019 screening date.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")
Case ID No. 58423
Reg. Ent. Reference No. RN101992360
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
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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)	\$1,500	22-Jul-2019	4-Apr-2020	0.70	\$53	n/a	\$53

Notes for DELAYED costs

Estimated delayed cost to monitor the USTs for releases. 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

\$1,500

TOTAL

\$53

Screening Date	2-Oct-2019	Docket No.	2019-1448-PST-E	PCW
Respondent	CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	58423			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101992360			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Ken Moller			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="15.0%"/>
Potential	<input type="text"/>	x	<input type="text"/>		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0.0%"/>
Matrix Notes	<input type="text" value="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."/>				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the July 22, 2019 investigation date to the September 19, 2019 compliance date.

Good Faith Efforts to Comply

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	x	<input type="text"/>

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")
Case ID No. 58423
Reg. Ent. Reference No. RN101992360
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Equipment	\$500	22-Jul-2019	19-Sep-2019	0.16	\$0	\$5	\$6
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated delayed cost to replace the spill bucket for the super unleaded fuel UST. 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

Screening Date	2-Oct-2019	Docket No.	2019-1448-PST-E	PCW
Respondent	CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	58423			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101992360			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Ken Moller			

Violation Number

Rule Cite(s)

Violation Description

Failed to maintain all components of a UST system electrically isolated from the corrosive elements of the surrounding soil, backfill, groundwater or any other water, and from other metallic components. Specifically, sumps for the submersible turbine pumps ("STPs") contained metal components that were not electrically isolated due to the presence of water in the sumps.

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>
				Percent <input type="text" value="30.0%"/>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
					Percent <input type="text" value="0.0%"/>

Matrix Notes

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the July 22, 2019 investigation date to the October 2, 2019 screening date.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")
Case ID No. 58423
Reg. Ent. Reference No. RN101992360
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
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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	\$100	22-Jul-2019	22-Jul-2019	0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	22-Jul-2019	19-Jul-2020	0.99	\$25	n/a	\$25

Notes for DELAYED costs

Estimated delayed cost to remove water from the sumps for the regular unleaded, premium, and diesel fuel STPs, as well as the sump under the dispenser for the diesel fuel tank (\$100). The Date Required is the investigation date, and the Final Date is the date the corrective action was completed.

Estimated delayed cost to test the corrosion protection system for the UST system (\$500). 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 \$600

TOTAL \$25

Screening Date	2-Oct-2019	Docket No.	2019-1448-PST-E	PCW
Respondent	CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	58423			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN101992360			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Ken Moller			

Violation Number

Rule Cite(s)

Violation Description

Failed to provide written notice of any change or additional information to the agency regarding the USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not updated to indicate that anodes had been installed inside the sumps for the diesel and premium unleaded fuel STPs.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="15.0%"/>
Matrix Notes	100% of the rule requirement was not met.				

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One single event is recommended.

Good Faith Efforts to Comply

Reduction

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

Notes

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

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent CIRCLE K STORES INC. dba Circle K Store 2704686 ("Facility 1")
Case ID No. 58423
Reg. Ent. Reference No. RN101992360
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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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)	\$40	22-Jul-2019	19-Jul-2020	0.99	\$2	n/a	\$2

Notes for DELAYED costs

Estimated delayed cost to submit an updated registration form to indicate that anodes had been installed inside the sumps for the diesel and the premium unleaded fuel STPs. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40

TOTAL

\$2



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	23-Sep-2019			
	PCW	8-Oct-2019	Screening	2-Oct-2019	EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent	CIRCLE K STORES INC. dba Circle K Store 2704676 ("Facility 2")				
Reg. Ent. Ref. No.	RN105829030				
Facility/Site Region	11-Austin	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	58423	No. of Violations	1
Docket No.	2019-1448-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Ken Moller
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Adjustment **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts: \$75
 Estimated Cost of Compliance: \$1,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$7,500**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,500**

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

Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$7,500**

Screening Date	2-Oct-2019	Docket No.	2019-1448-PST-E	PCW
Respondent Case ID No.	CIRCLE K STORES INC. dba Circle K Store 2704676 ("Facility 2")			<i>Policy Revision 4 (April 2014)</i>
Reg. Ent. Reference No.	58423			<i>PCW Revision March 26, 2014</i>
Media [Statute]	RN105829030			
Enf. Coordinator	Petroleum Storage Tank			
	Ken Moller			

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 0%

Screening Date	2-Oct-2019	Docket No.	2019-1448-PST-E	PCW
Respondent	CIRCLE K STORES INC. dba Circle K Store 2704676 ("Facility 2")			<i>Policy Revision 4 (April 2014)</i>
Case ID No.	58423			<i>PCW Revision March 26, 2014</i>
Reg. Ent. Reference No.	RN105829030			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Ken Moller			

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="30.0%"/>
Potential	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

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

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the July 22, 2019 investigation date to the October 2, 2019 screening date.

Good Faith Efforts to Comply Reduction

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

Notes

Violation Subtotal

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

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent CIRCLE K STORES INC. dba Circle K Store 2704676 ("Facility 2")
Case ID No. 58423
Reg. Ent. Reference No. RN105829030
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
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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)	\$1,500	22-Jul-2019	19-Jul-2020	0.99	\$75	n/a	\$75

Notes for DELAYED costs

Estimated delayed cost to implement interstitial monitoring release detection for all USTs at Facility 2. The Date Required is the investigation date, and the Final Date is the estimated date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$75

The TCEQ is committed to accessibility.

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



TCEQ Compliance History Report

Compliance History Report for CN600134456, RN101992360, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600134456, CIRCLE K STORES INC. **Classification:** SATISFACTORY **Rating:** 2.07
Regulated Entity: RN101992360, Circle K Store 2704686 ("Facility 1") **Classification:** HIGH **Rating:** 0.00
Complexity Points: 4 **Repeat Violator:** NO
CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations
Location: 6107 West Parmer Lane, Austin, Travis County, Texas 78729-7577
TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 67707

EDWARDS AQUIFER PERMIT 11-95012603

EDWARDS AQUIFER PERMIT 11-15041601

LEAKING PETROLEUM STORAGE TANKS REMEDIATION

ID NUMBER 118859

EDWARDS AQUIFER PERMIT 11-95012603A

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: October 02, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 02, 2014 to October 02, 2019

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

Name: Ken Moller

Phone: (512) 239-6111

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 August 11, 2016 (1355128)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

The TCEQ is committed to accessibility.

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



TCEQ Compliance History Report

Compliance History Report for CN600134456, RN105829030, Rating Year 2019 which includes Compliance History (CH) components from September 1, 2014, through August 31, 2019.

Customer, Respondent, or Owner/Operator: CN600134456, CIRCLE K STORES INC. **Classification:** SATISFACTORY **Rating:** 2.07
Regulated Entity: RN105829030, Circle K Store 2704676 ("Facility 2") **Classification:** HIGH **Rating:** 0.00
Complexity Points: 3 **Repeat Violator:** NO
CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations
Location: 3817 Williams Drive, Georgetown, Williamson County, Texas 78628-2416
TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

EDWARDS AQUIFER PERMIT 11-09102901

EDWARDS AQUIFER PERMIT 11-10011901

EDWARDS AQUIFER PERMIT 11-09102902

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 84389

Compliance History Period: September 01, 2014 to August 31, 2019 **Rating Year:** 2019 **Rating Date:** 09/01/2019

Date Compliance History Report Prepared: October 02, 2019

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 02, 2014 to October 02, 2019

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

Name: Ken Moller

Phone: (512) 239-6111

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

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

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

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 August 08, 2016 (1350196)

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

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

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CIRCLE K STORES INC.
DBA CIRCLE K STORE 2704686
AND DBA CIRCLE K STORE 2704676;
RN101992360 & RN105829030

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER

DOCKET NO. 2019-1448-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CIRCLE K STORES INC. dba Circle K Store 2704686 and dba Circle K Store 2704676 ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and the Respondent, represented by John M. Pearce of the law firm Fennemore Craig, P.C., together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), underground storage tank ("UST") systems and convenience stores with retail sales of gasoline (collectively referred to as the "Facilities") located as follows:
 - a. Circle K Store 2704686, at 6107 West Parmer Lane in Austin, Travis County, Texas (Facility ID No. 67707) (herein "Facility No. 1"); and
 - b. Circle K Store 2704676, at 3817 Williams Drive in Georgetown, Williamson County, Texas (Facility ID No. 84389) (herein "Facility No. 2").

The UST systems at the Facilities are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission and contain or contained a regulated petroleum substance as defined in the rules of the TCEQ.

2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of twenty-nine thousand six hundred twenty-five dollars (\$29,625.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Respondent paid twenty-nine thousand six hundred twenty-five dollars (\$29,625.00) of the penalty.
5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent implemented the following corrective measures at Facility No. 1:
 - a. Implemented a release detection method for the USTs which will detect a release at a frequency of at least once every 30 days as of April 4, 2020 (Allegation No. 1.a);
 - b. Replaced the spill bucket for the super unleaded UST on September 19, 2019 (Allegation No. 1.b); and
 - c. Removed water from the sumps for the regular unleaded, premium, and diesel fuel submersible turbine pumps ("STPs"), as well as the sump under the dispenser for the diesel fuel tank on July 22, 2019 (Allegation No. 1.c).

II. ALLEGATIONS

1. During an investigation conducted at Facility No. 1 on July 22, 2019, an investigator documented that Respondent:
 - a. Failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A);
 - b. Failed to assure that all installed spill and overfill prevention devices are maintained in good operating condition, in violation of TEX. WATER CODE § 26.3475(c)(2) and 30 TEX. ADMIN. CODE § 334.51(a)(6). Specifically, the spill bucket for the super unleaded UST was cracked;
 - c. Failed to maintain all components of a UST system electrically isolated from the corrosive elements of the surrounding soil, backfill, groundwater or any other water, and from other metallic components, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(b)(2). Specifically, sumps for the STPs contained metal components that were not electrically isolated due to the presence of water in the sumps; and
 - d. Failed to provide written notice of any change or additional information to the agency regarding the USTs within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(1)(F) and (d)(3). Specifically, the registration was not updated to indicate that anodes had been installed inside sumps for the diesel and premium unleaded fuel STPs.
2. During an investigation conducted at Facility No. 2 on July 22, 2019, an investigator documented that Respondent failed to monitor the USTs in a manner which will detect a release at a frequency of at least once every 30 days by using interstitial monitoring for USTs installed on or after January 1, 2009, by no later than September 1, 2018, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(B).

Specifically, the USTs were installed on July 1, 2011, and Respondent was not conducting interstitial monitoring.

III. DENIALS

Respondent generally denies each allegation in Section II.

IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here.
2. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order:
 - i. Begin conducting interstitial monitoring to monitor the USTs at Facility No. 2 in a manner that will detect a release at a frequency of at least once every 30 days, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Allegation No. 2);
 - ii. Begin conducting bimonthly inspections of all sumps, manways, overspill containers, and catchment basins at Facility No. 1, in accordance with 30 TEX. ADMIN. CODE § 334.42 (Allegation Nos. 1.b. and 1.c.); and
 - iii. Submit an updated UST registration and self-certification form to reflect the current corrosion protection method(s) for the USTs at Facility No. 1, in accordance with 30 TEX. ADMIN. CODE § 334.7 (Allegation No. 1.d.).
 - b. Within 45 days after the effective date of this Order, submit written certification to demonstrate compliance with Ordering Provisions Nos. 2.a.i. through 2.a.iii. The certifications shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

The written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions shall be sent to:

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

with a copy to:

Waste Section Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Erin E. Chanallop

For the Executive Director

8/7/23

Date

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

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

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

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

Michael McKay

Signature - Authorized Representative
CIRCLE K STORES Inc.
P.O. Box 52085
Phoenix, Arizona 85072-2085

6/13/23

Date

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