

Order Type:
Default Shutdown Order

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
3700 East Rosedale Street, Fort Worth, Tarrant County

Type of Operation:
underground storage tank ("UST") system and convenience store with retail sales of gasoline

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

Texas Register Publication Date: April 21, 2023

Comments Received: None

Penalty Information

Total Penalty Assessed: \$18,356

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$18,356

Compliance History Classifications:
Person/CN – SATISFACTORY
Site/RN – SATISFACTORY

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: November 3, 2020, through December 28, 2020

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

Date(s) of NOE(s): December 31, 2020

Jamal Jafari dba J & K Food Store

RN101549574

Docket No. 2021-0083-PST-E

Violation Information

1. Failed to comply with annual Stage I vapor recovery testing requirements [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.225].
2. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of regulated substance into the USTs [TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i)].
3. 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 [30 TEX. ADMIN. CODE § 37.815(a) and (b)].
4. Failed to monitor the USTs for releases 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)].
5. Failed to provide release detection for the pressurized piping associated with the UST system [TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2)].
6. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C)].
7. Failed to 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 [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

None

Technical Requirements:

1. Immediately shut down operations of all USTs at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;
 - d. Empty the USTs of all regulated substances; and
 - e. Temporarily remove the USTs from service.
2. The Station's UST fuel delivery certificate is revoked immediately. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order, including payment of the administrative penalty in full.
3. The USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance, release detection, and corrosion protection violations have been corrected and Respondent obtains a new fuel delivery certificate for the Station.
4. Immediately cease accepting fuel at the Station until such time as a valid delivery certificate is obtained from the TCEQ.
5. Within 10 days Respondent shall surrender the Station's UST fuel delivery certificate to the TCEQ.
6. Within 15 days submit a detailed written report documenting the steps taken to comply with Technical Requirement Nos. 1.a. through 1.e., 4 and 5.
7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:
 - a. Conduct the annual testing of the Stage I equipment;

Jamal Jafari dba J & K Food Store**RN101549574****Docket No. 2021-0083-PST-E**

- b. Submit documentation that demonstrates 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;
 - c. Implement a method of release detection for the USTs at the Station;
 - d. Conduct the annual line leak detector and piping tightness testing for the USTs at the Station;
 - e. Begin conducting the required bimonthly inspections of the cathodic protection system; and
 - f. Obtain a new fuel delivery certificate.
8. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times.
 9. Within 10 days of resuming sales of gasoline, submit written certification to demonstrate compliance with Technical Requirement Nos. 7 and 8.

Litigation Information

Date Petition(s) Filed: October 29, 2021
Date(s) of Service: November 1, 2021
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Benjamin Pence, 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: Stephanie McCurley, Enforcement Division, (512) 239-2607

TCEQ Regional Contact: Erin Gorman, Dallas/Fort Worth Regional Office, (817) 588-5800

Respondent Contact: Jamal Jafari, 3700 East Rosedale Street, Fort Worth, Texas 76105

Respondent's Attorney: N/A

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Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

DATES	Assigned	7-Jan-2021	Screening	11-Jan-2021	EPA Due	
	PCW	11-Apr-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Jamal Jafari dba J & K Food Store
Reg. Ent. Ref. No.	RN101549574
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	60257	No. of Violations	6
Docket No.	2021-0083-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Stephanie McCurley
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$13,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	0.0% Adjustment	Subtotals 2, 3, & 7	\$0
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Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$4,760
 Estimated Cost of Compliance: \$7,815
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	33.5% Adjustment	\$4,606
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost associated with Violation Nos. 1, 3, 5, and 6.

Final Penalty Amount	\$18,356
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$18,356
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DEFERRAL	Reduction Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$18,356
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Screening Date 11-Jan-2021

Docket No. 2021-0083-PST-E

PCW

Respondent Jamal Jafari dba J & K Food Store

Policy Revision 4 (April 2014)

Case ID No. 60257

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101549574

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

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 11-Jan-2021

Docket No. 2021-0083-PST-E

PCW

Respondent Jamal Jafari dba J & K Food Store

Policy Revision 4 (April 2014)

Case ID No. 60257

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101549574

Media Petroleum Storage Tank

Enf. Coordinator Stephanie McCurley

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 115.225 and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to comply with annual Stage I vapor recovery testing requirements.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$547

Violation Final Penalty Total \$1,669

This violation Final Assessed Penalty (adjusted for limits) \$1,669

Economic Benefit Worksheet

Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
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	Costs Saved	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)	\$500	28-Dec-2020	3-Nov-2021	0.85	\$21	n/a	\$21

Notes for DELAYED costs

Estimated delayed cost to conduct the annual testing of the Stage I equipment. The Date Required is the investigation end date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$500	28-Dec-2019	11-Jan-2021	1.04	\$26	\$500	\$526

Notes for AVOIDED costs

Estimated avoided cost to conduct the annual testing of the Stage I equipment. The Date Required is one year prior to the investigation end date and the Final Date is the screening date.

Approx. Cost of Compliance

\$1,000

TOTAL

\$547

Screening Date 11-Jan-2021
Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
Media Petroleum Storage Tank
Enf. Coordinator Stephanie McCurley

Docket No. 2021-0083-PST-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number

Rule Cite(s)

30 Tex. Admin. 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 a delivery of regulated substance into the underground storage tanks ("USTs").

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

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

Percent

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 Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
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	Costs Saved	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

Economic benefit included in Violation No. 6.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 11-Jan-2021
Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
Media Petroleum Storage Tank
Enf. Coordinator Stephanie McCurley

Docket No. 2021-0083-PST-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 3

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. Specifically, the insurance policy expired on May 3, 2018.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

984 **Number of violation days**

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,953

Violation Final Penalty Total \$1,669

This violation Final Assessed Penalty (adjusted for limits) \$1,669

Economic Benefit Worksheet

Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
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	Costs Saved	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)	\$1,320	28-Dec-2020	3-Nov-2021	0.85	\$56	n/a	\$56

Notes for DELAYED costs

Estimated delayed cost to provide financial assurance for two petroleum USTs (\$660 each). The Date Required is the investigation end date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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	\$1,320	3-May-2018	11-Jan-2021	2.70	\$338	\$3,559	\$3,897
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to provide financial assurance for two petroleum USTs (\$660 each). The Date Required is the expiration date of the policy and the Final Date is the screening date.

Approx. Cost of Compliance

\$4,879

TOTAL

\$3,953

Screening Date 11-Jan-2021
Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
Media Petroleum Storage Tank
Enf. Coordinator Stephanie McCurley

Docket No. 2021-0083-PST-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 4

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

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once every 30 days. Also, failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the Respondent had not conducted the line leak detector and piping tightness testing.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

Matrix Notes

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 14 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the December 28, 2020 investigation end date to the January 11, 2021 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$71

Violation Final Penalty Total \$5,006

This violation Final Assessed Penalty (adjusted for limits) \$5,006

Economic Benefit Worksheet

Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
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	Costs Saved	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	\$118	31-Aug-2020	3-Nov-2021	1.18	\$7	n/a	\$7
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	28-Dec-2020	3-Nov-2021	0.85	\$64	n/a	\$64

Notes for DELAYED costs

Estimated delayed cost to implement a method of release detection for the USTs at the Station (\$1,500). The Date Required is the investigation end date and the Final Date is the estimated date of compliance.

Estimated delayed cost to conduct the line leak detector and piping tightness testing (\$118). The Date Required is the date the testing was due and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,618

TOTAL

\$71

Screening Date 11-Jan-2021
Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
Media Petroleum Storage Tank
Enf. Coordinator Stephanie McCurley

Docket No. 2021-0083-PST-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and Tex. Water Code § 26.3475(d)

Violation Description Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				15.0%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 14 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the December 28, 2020 investigation end date to the January 11, 2021 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

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

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$105

Violation Final Penalty Total \$5,006

This violation Final Assessed Penalty (adjusted for limits) \$5,006

Economic Benefit Worksheet

Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
Media Petroleum Storage Tank
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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)	\$100	28-Dec-2020	3-Nov-2021	0.85	\$4	n/a	\$4

Notes for DELAYED costs

Estimated delayed cost to implement the required bimonthly inspections of the cathodic protection system. The Date Required is the investigation end date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)	\$100	29-Oct-2020	11-Jan-2021	0.20	\$1	\$100	\$101

Notes for AVOIDED costs

Estimated avoided cost to conduct bimonthly inspections of the cathodic protection system. The Date Required is 60 days prior to the investigation end date and the Final Date is the screening date.

Approx. Cost of Compliance

\$200

TOTAL

\$105

Screening Date 11-Jan-2021
Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
Media Petroleum Storage Tank
Enf. Coordinator Stephanie McCurley

Docket No. 2021-0083-PST-E

PCW

Policy Revision 4 (April 2014)
PCW Revision March 26, 2014

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description

Failed to 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 delivery certificate expired on January 31, 2019.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

711 **Number of violation days**

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

Two annual events are recommended from the January 31, 2019 date the delivery certificate expired until the January 11, 2021 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$84

Violation Final Penalty Total \$3,337

This violation Final Assessed Penalty (adjusted for limits) \$3,337

Economic Benefit Worksheet

Respondent Jamal Jafari dba J & K Food Store
Case ID No. 60257
Reg. Ent. Reference No. RN101549574
Media Petroleum Storage Tank
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	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	28-Dec-2020	3-Nov-2021	0.85	\$2	n/a	\$2

Notes for DELAYED costs

Estimated delayed cost to accurately prepare and submit a UST registration and self-certification form and obtain a valid, current TCEQ delivery certificate. The Date Required is the investigation end date and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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	\$40	31-Jan-2019	11-Jan-2021	1.95	\$4	\$78	\$82
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to accurately prepare and submit a UST registration and self-certification form and obtain a valid, current TCEQ delivery certificate. The Date Required is the expiration date of the certificate and the Final Date is the screening date.

Approx. Cost of Compliance

\$118

TOTAL

\$84

The TCEQ is committed to accessibility.

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



Compliance History Report

Compliance History Report for CN600817159, RN101549574, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

Customer, Respondent, or Owner/Operator: CN600817159, Jamal Jafari **Classification:** SATISFACTORY **Rating:** 10.00

Regulated Entity: RN101549574, J & K Food Store **Classification:** SATISFACTORY **Rating:** 10.00

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

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

Location: 3700 East Rosedale Street in Fort Worth, Tarrant County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 72773

PETROLEUM STORAGE TANK NON REGISTERED ID
NUMBER R04101549574

Compliance History Period: September 01, 2015 to August 31, 2020 **Rating Year:** 2020 **Rating Date:** 09/01/2020

Date Compliance History Report Prepared: March 29, 2021

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 29, 2016 to March 29, 2021

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

Name: Stephanie McCurley

Phone: (512) 239-2607

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 October 27, 2017 (1446917)

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

Component Appendices

Appendix A

All NOVs Issued During Component Period 3/29/2016 and 3/29/2021

N/A

For Informational Purposes Only

Appendix B

All Investigations Conducted During Component Period March 29, 2016 and March 29, 2021

(1446917)

Item 1*

October 27, 2017**

For Informational Purposes Only

(1555151)

Item 2

December 31, 2020

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2015 and 08/31/2020.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN ENFORCEMENT
ACTION CONCERNING
Jamal Jafari
dba J & K Food STORE;
RN101549574

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

DEFAULT AND SHUTDOWN ORDER

DOCKET NO. 2021-0083-PST-E

On _____, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition, filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the station's fuel delivery certificate. The Commission also considered the Executive Director's Motion requesting the entry of an Order requiring the respondent to shut down and remove from service the underground storage tanks ("USTs") located at 3700 East Rosedale Street in Fort Worth, Tarrant County, Texas. The respondent made the subject of this Order is Jamal Jafari dba J & K Food Store ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), a UST system and a convenience store with retail sales of gasoline located at 3700 East Rosedale Street in Fort Worth, Tarrant County, Texas (Facility ID No. 72773) (the "Station"). The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the TCEQ, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. During an investigation conducted November 3, 2020, through December 28, 2020, an investigator documented that Respondent:
 - a. Failed to comply with annual Stage I vapor recovery testing requirements;
 - b. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of regulated substance into the USTs;
 - c. 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. Specifically, the insurance policy expired on May 3, 2018;
 - d. Failed to monitor the USTs for releases at a frequency of at least once every 30 days;
 - e. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, Respondent had not conducted the line leak detector and piping tightness testing;
 - f. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly; and

- g. Failed to 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 delivery certificate expired on January 31, 2019.
3. By letter dated December 31, 2020, Respondent was provided with written notice of the violations and of TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations were not corrected.
4. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Jamal Jafari dba J & K Food Store" (the "EDFARP") in the TCEQ Chief Clerk's office on October 29, 2021.
5. By letter dated October 29, 2021, sent to Respondent's last known address via certified mail, return receipt requested, postage prepaid, the Executive Director served Respondent with notice of the EDFARP. According to USPS.com "Track & Confirm" delivery confirmation records, Respondent received notice of the EDFARP on November 1, 2021.
6. More than 20 days have elapsed since Respondent received notice of the EDFARP. Respondent failed to file an answer and failed to request a hearing.
7. By letter dated February 24, 2023, the Executive Director provided Respondent with notice of TCEQ's intent to order the USTs at the Station to be shut down and removed from service if Respondent failed to correct the financial assurance, release detection, and corrosion protection violations within 30 days after Respondent's receipt of the notice.
8. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the financial assurance, release detection, and corrosion protection violations alleged in Findings of Fact Nos. 2.c. through 2.f. have been corrected.
9. The USTs at the Station do not have financial assurance, release detection, and corrosion protection as required by TEX. WATER CODE § 26.3475(a)(c)(1), and (d), and 30 TEX. ADMIN. CODE §§ 37.815(a) and (b), 334.49(c)(2)(C), and 334.50(b)(1)(A) and (b)(2) and may be releasing petroleum products to the environment. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to comply with annual Stage I vapor recovery testing requirements, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.225.
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting a delivery of regulated substance into the USTs, in violation of TEX. WATER CODE § 26.3467(a) and 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i).
4. As evidenced by Finding of Fact No. 2.c., Respondent 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, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b).
5. As evidenced by Finding of Fact No. 2.d., Respondent failed to monitor the USTs for releases 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).
 6. As evidenced by Finding of Fact No. 2.e., Respondent failed to provide release detection for the pressurized piping associated with the UST system, in violation of TEX. WATER CODE § 26.3475(a) and 30 TEX. ADMIN. CODE § 334.50(b)(2).
 7. As evidenced by Finding of Fact No. 2.f., Respondent failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and system components are operating properly, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE § 334.49(c)(2)(C).
 8. As evidenced by Finding of Fact No. 2.g., Respondent failed to 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, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii).
 9. As evidenced by Findings of Fact Nos. 4 and 5, the Executive Director timely served Respondent with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(b)(1).
 10. As evidenced by Finding of Fact No. 6, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
 11. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
 12. An administrative penalty in the amount of eighteen thousand three hundred fifty-six dollars (\$18,356.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
 13. As evidenced by Findings of Fact Nos. 2.c. through 2.f., 3, 7, and 8, Respondent failed to correct documented violations of TCEQ financial assurance, release detection, and corrosion protection requirements within 30 days after Respondent received notice of the violations and notice of the Executive Director's intent to shut down the USTs at the Station.
 14. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of TCEQ regulatory requirements relating to release detection for tanks and/or piping, spill and/or overflow prevention for tanks, corrosion protection for tanks and/or piping, and/or acceptable financial assurance.
 15. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
 16. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Station's UST fuel delivery certificate if the Commission finds that good cause exists.

17. Good cause for revocation of the Station's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 4 through 6, and Conclusions of Law Nos. 2 through 10.
18. As evidenced by Findings of Fact Nos. 8 and 9, current conditions at the Station constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date it is signed by the Commission.

ORDERING PROVISIONS

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

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Secure the dispensers to prevent access;
 - d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. The Station's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order, including payment of the administrative penalty in full.
3. The USTs at the Station shall remain out of service, pursuant to TEX. WATER CODE §§ 26.3475(e) and 26.352(i) and as directed by Ordering Provisions Nos. 1.a. through 1.e. until such time as Respondent demonstrates to the satisfaction of the Executive Director that the financial assurance, release detection, and corrosion protection violations noted in Conclusions of Law Nos. 4 through 7 have been corrected and Respondent obtains a new fuel delivery certificate for the Station.
4. Immediately upon the effective date of this Order, Respondent shall cease accepting fuel at the Station until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8.
5. Within 10 days after the effective date of this Order, Respondent shall send the Station's UST fuel delivery certificate to:

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

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

8. Respondent is assessed an administrative penalty in the amount of eighteen thousand three hundred fifty-six dollars (\$18,356.00) for violations of state statutes and rules of the TCEQ. The payment of this penalty and Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
9. The penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to TCEQ and shall be sent with the notation "Re: Jamal Jafari dba J & K Food Store; Docket No. 2021-0083-PST-E" to:

Financial Administration Division, Revenue Operations Section
Texas Commission on Environmental Quality
Attention: Cashier's Office, MC 214
P.O. Box 13088
Austin, Texas 78711-3088
10. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall undertake the following technical requirements:
 - a. Conduct the annual testing of the Stage I equipment, in accordance with 30 TEX. ADMIN. CODE § 115.225 (Conclusion of Law No. 2);
 - b. Submit documentation that demonstrates 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, in accordance with 30 TEX. ADMIN. CODE § 37.815 (Conclusion of Law No. 4);
 - c. Implement a method of release detection for the USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusion of Law No. 5);
 - d. Conduct the annual line leak detector and piping tightness testing for the USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusion of Law No. 6);
 - e. Begin conducting the required bimonthly inspections of the cathodic protection system, in accordance with 30 TEX. ADMIN. CODE § 334.49 (Conclusion of Law No. 7); and
 - f. Obtain a new fuel delivery certificate from the TCEQ.
11. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
12. Within 10 days of resuming retail sales of gasoline, Respondent shall submit written certification, in accordance with Ordering Provision No. 13, below, to demonstrate compliance with Ordering Provision Nos. 10 and 11.
13. The certifications required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including photographs, receipts, and/or other records, shall be signed by Respondent, and shall include the following certification language:

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

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

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

and:

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

14. All relief not expressly granted in this Order is denied.
15. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
16. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.
17. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
18. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
19. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
20. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
21. The Chief Clerk shall provide a copy of this fully executed Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



UNSWORN DECLARATION OF BENJAMIN L. PENCE

“On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Jamal Jafari dba J & K Food Store’ (the “EDFARP”) was filed in the TCEQ Chief Clerk’s office on October 29, 2021.

The EDFARP was mailed to Respondent’s last known address on October 29, 2021, via certified mail, return receipt requested, postage prepaid. According to USPS.com “Track & Confirm” delivery confirmation records, Respondent received notice of the EDFARP on November 1, 2021.

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

By letter dated February 24, 2023, sent via first class mail and certified mail, return receipt requested article no. 7021 0350 0000 4995 1817, I provided Respondent with notice of the TCEQ’s intent to order the USTs at the Station be shut down and removed from service if the violations pertaining to financial assurance, release detection, and corrosion protection were not corrected within 30 days of Respondent’s receipt of the letter. According to the return receipt “green card,” Respondent received the notice on February 27, 2023. The first class mail has not been returned.

As of the date of this declaration, I am not aware of any evidence that indicates that Respondent has corrected the financial assurance, release detection, and corrosion protection violations noted during the November 3, 2020, through December 28, 2020 investigation.”

"My name is Benjamin L. Pence, and I am an employee of the following governmental agency: Texas Commission on Environmental Quality. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct."

Executed in Travis County,

State of Texas,

on the 24th day of February, 2023

Benjamin Pence

Declarant