

**Executive Summary – Enforcement Matter – Case No. 60598**  
**ASPK PROPERTIES LLC dba Big Z Food Mart**  
**RN103012936**  
**Docket No. 2021-0453-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

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

Big Z Food Mart, 405 West B.C. Rhome Avenue, Rhome, Wise County

**Type of Operation:**

Underground storage tank ("UST") system and a convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** September 3, 2021

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$40,999

**Amount Deferred for Expedited Settlement:** \$8,199

**Total Paid to General Revenue:** \$915

**Total Due to General Revenue:** \$31,885

Payment Plan: 35 payments of \$911 each

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** January 28, 2021

**Date(s) of NOE(s):** March 26, 2021

**Executive Summary – Enforcement Matter – Case No. 60598**  
**ASPK PROPERTIES LLC dba Big Z Food Mart**  
**RN103012936**  
**Docket No. 2021-0453-PST-E**

***Violation Information***

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, automatic tank gauge ("ATG") test results for March and April of 2020 for the diesel UST indicated a suspected release that was not reported. Additionally, ATG test results for November and December of 2020 and January of 2021 for the regular unleaded UST indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].
2. Failed to investigate and confirm all suspected releases of regulated substances within 30 days. Specifically, ATG test results for the regular unleaded and diesel UST indicated suspected releases that were not investigated [30 TEX. ADMIN. CODE § 334.74].
3. Failed to ensure that all installed spill containment devices are maintained in good operating condition. Specifically, the spill bucket for the regular unleaded UST failed the triennial spill bucket test and would no longer prevent a release to the environment [30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. Replaced the spill bucket for the regular unleaded UST at the Facility on April 2, 2021; and
- b. Sold the Facility on March 31, 2021.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Courtney Gooris, Enforcement Division, Enforcement Team 7, MC 219, (512) 239-1118; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Sambath Chim, Manager, Big Z Food Mart, 4968 O'Brien Way, Fort Worth, Texas 76244

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	29-Mar-2021	<b>Screening</b>	6-Apr-2021	<b>EPA Due</b>	
	<b>PCW</b>	13-Apr-2021				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	ASPK PROPERTIES LLC dba Big Z Food Mart
<b>Reg. Ent. Ref. No.</b>	RN103012936
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60598	<b>No. of Violations</b>	3
<b>Docket No.</b>	2021-0453-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Courtney Atkins
		<b>EC's Team</b>	Enforcement Team 7
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$43,750
---	-------------------	----------

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	-10.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	-\$4,375
---------------------------	--------	------------	--------------------------------	----------

<b>Notes</b>	Reduction for High Performer classification.
--------------	--

<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------	-------------	-------------------	-----

<b>Notes</b>	The Respondent does not meet the culpability criteria.
--------------	--

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
--	-------------------	-----

<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	------	--------------	-------------------	-----

Total EB Amounts	\$1,651	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,828	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$39,375
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	4.1%	Adjustment	\$1,624
---	------	------------	---------

Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	Enhancement to capture the avoided cost of compliance for Violations No. 1, No. 2, and No. 3.
--------------	---

<b>Final Penalty Amount</b>	\$40,999
-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$40,999
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$8,199
-----------------	-------	-----------	------------	----------

Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.
--------------	--

<b>PAYABLE PENALTY</b>	\$32,800
------------------------	----------

**Screening Date** 6-Apr-2021

**Docket No.** 2021-0453-PST-E

**PCW**

**Respondent** ASPK PROPERTIES LLC dba Big Z Food Mart

*Policy Revision 5 (January 28, 2021)*

**Case ID No.** 60598

*PCW Revision February 11, 2021*

**Reg. Ent. Reference No.** RN103012936

**Media** Petroleum Storage Tank

**Enf. Coordinator** Courtney Atkins

### 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)**

High Performer

**Adjustment Percentage (Subtotal 7)** -10%

**>> Compliance History Summary**

**Compliance History Notes**

Reduction for High Performer classification.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** -10%

**>> Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** -10%

**Screening Date** 6-Apr-2021 **Docket No.** 2021-0453-PST-E **PCW**  
**Respondent** ASPK PROPERTIES LLC dba Big Z Food Mart *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60598 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN103012936  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Courtney Atkins

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code § 334.72

**Violation Description**  
 Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, automatic tank gauge ("ATG") test results for March and April of 2020 for the diesel underground storage tank ("UST") indicated a suspected release that was not reported. Additionally, ATG test results for November and December of 2020 and January of 2021 for the regular unleaded UST indicated a suspected release that was not reported.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0.0%
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			20.0%

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

**Adjustment** \$20,000

\$5,000

**Violation Events**

Number of Violation Events 2 378 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$10,000

Two single events are recommended (one for each UST in which a suspected release occurred).

**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** \$10,000

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

**Estimated EB Amount** \$68 **Violation Final Penalty Total** \$9,371

**This violation Final Assessed Penalty (adjusted for limits)** \$9,371

# Economic Benefit Worksheet

**Respondent** ASPK PROPERTIES LLC dba Big Z Food Mart  
**Case ID No.** 60598  
**Reg. Ent. Reference No.** RN103012936  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Other (as needed)	\$100	28-Jan-2021	31-Mar-2021	0.17	\$0	\$17	\$17
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	\$25	19-Mar-2020	31-Mar-2021	1.03	\$1	\$25	\$26
Other (as needed)	\$25	19-Nov-2020	31-Mar-2021	0.36	\$0	\$25	\$25

Notes for AVOIDED costs

Estimated avoided cost to develop and implement a process for reporting suspected releases timely (\$100). The Date Required is the investigation date and the Final Date is the date the Respondent sold the Facility.

Estimated avoided cost to report the suspected releases indicated for the regular unleaded (\$25) and diesel (\$25) USTs. The Dates Required are the 24-hour due dates of when the suspected releases should have been reported and the Final Dates are the date the Respondent sold the Facility.

Approx. Cost of Compliance

\$67

**TOTAL**

\$68

**Screening Date** 6-Apr-2021 **Docket No.** 2021-0453-PST-E **PCW**  
**Respondent** ASPK PROPERTIES LLC dba Big Z Food Mart *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60598 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN103012936  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Courtney Atkins

**Violation Number**

**Rule Cite(s)**

**Violation Description** Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 Tex. Admin. Code § 334.72 (relating to Reporting of Suspected Releases) within 30 days. Specifically, ATG test results for the regular unleaded and diesel UST indicated suspected releases that were not investigated.

**Base Penalty**

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

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<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"/>	

**>> Programmatic Matrix**

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

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

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

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**

Four quarterly events are recommended from the first suspected release investigation due date of May 22, 2020 to the March 31, 2021 date of ownership change.

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	<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** ASPK PROPERTIES LLC dba Big Z Food Mart  
**Case ID No.** 60598  
**Reg. Ent. Reference No.** RN103012936  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

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

Notes for DELAYED costs

### Avoided Costs

**ANNUALIZE 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)	\$1,400	22-May-2020	31-Mar-2021	0.86	\$60	\$1,400	\$1,460

Notes for AVOIDED costs

Estimated avoided cost (\$400 for testing both the regular unleaded and diesel USTs and \$600 for the Release Determination Report) to conduct an investigation of the suspected release for the UST system. The Date Required is the first 30-day suspected release investigation due date and the Final Date is the date the Respondent sold the Facility.

Approx. Cost of Compliance \$1,400

**TOTAL** \$1,460



**Screening Date** 6-Apr-2021 **Docket No.** 2021-0453-PST-E **PCW**  
**Respondent** ASPK PROPERTIES LLC dba Big Z Food Mart *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 60598 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN103012936  
**Media** Petroleum Storage Tank  
**Enf. Coordinator** Courtney Atkins

**Violation Number** 3  
**Rule Cite(s)** 30 Tex. Admin. Code § 334.51(a)(6) and Tex. Water Code § 26.3475(c)(2)  
**Violation Description** Failed to ensure that all installed spill containment devices are maintained in good operating condition. Specifically, the spill bucket for the regular unleaded UST failed the triennial spill bucket test and would no longer prevent a release to the environment.

**Base Penalty** \$25,000

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

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 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** \$21,250

\$3,750

**Violation Events**

Number of Violation Events 1 62 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

**Violation Base Penalty** \$3,750

One single event is recommended.

**Good Faith Efforts to Comply** 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDRP/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** \$123 **Violation Final Penalty Total** \$3,514

**This violation Final Assessed Penalty (adjusted for limits)** \$3,514

## Economic Benefit Worksheet

**Respondent** ASPK PROPERTIES LLC dba Big Z Food Mart  
**Case ID No.** 60598  
**Reg. Ent. Reference No.** RN103012936  
**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
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

### Delayed Costs

Equipment	\$2,266	28-Jan-2021	2-Apr-2021	0.18	\$1	\$26	\$27
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**

Actual delayed cost to replace the spill bucket for the regular unleaded UST at the Facility (\$2,266). The Date Required is the investigation date and the Final Date is the 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)	\$95	28-Jan-2021	31-Mar-2021	0.17	\$1	\$95	\$96

**Notes for AVOIDED costs**

Estimated avoided cost to conduct the triennial spill bucket tightness test for the regular unleaded UST at the Facility (\$95 per spill bucket). The Date Required is the investigation date and the Final Date is the date the Respondent sold the Facility.

Approx. Cost of Compliance

\$2,361

**TOTAL**

\$123

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 CN605365360, RN103012936, Rating Year 2020 which includes Compliance History (CH) components from September 1, 2015, through August 31, 2020.

**Customer, Respondent, or Owner/Operator:** CN605365360, ASPK PROPERTIES LLC **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN103012936, Big Z Food Mart **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 6 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 405 West BC Rhome Avenue, Rhome, Wise County, Texas

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**PETROLEUM STORAGE TANK REGISTRATION**  
REGISTRATION 71942

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

**Date Compliance History Report Prepared:** April 05, 2021

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** April 05, 2016 to April 05, 2021

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

**Name:** Courtney Atkins

**Phone:** (512) 239-1118

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? YES
- 3) Who is the current owner/operator? Aspk Properties LLC OWNER OPERATOR since 5/1/2017
- 4) Who was/were the prior owner(s)/operator(s)? Caspian Management Group, Inc., OWNER OPERATOR, 1/1/2002 to 4/30/2017

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

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

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1 January 17, 2018 (1464915)

**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  
ASPK PROPERTIES LLC DBA BIG  
Z FOOD MART  
RN103012936**

§  
§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

**AGREED ORDER  
DOCKET NO. 2021-0453-PST-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding ASPK PROPERTIES LLC dba Big Z Food Mart (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owned and operated, as defined in 30 TEX. ADMIN. CODE § 334.2(78) and (75), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 405 West B.C. Rhome Avenue in Rhome, Wise County, Texas (the "Facility"). The UST system at the Facility is not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contains or contained a regulated petroleum substance as defined in the rules of the TCEQ.
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$40,999 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$915 of the penalty and \$8,199 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of \$31,885 of the undeferred penalty shall be paid in 35 monthly payments of \$911 each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than

30 days following the due date of the previous payment until the penalty is paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms and conditions of this Order and the Executive Director may demand payment of all or part of the deferred penalty amount.

5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, 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 the 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 the Respondent:
  - a. Replaced the spill bucket for the regular unleaded UST at the Facility on April 2, 2021; and
  - b. Sold the Facility on March 31, 2021.

## **II. ALLEGATIONS**

During an investigation conducted on January 28, 2021, an investigator documented that the Respondent:

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72. Specifically, automatic tank gauge ("ATG") test results for March and April of 2020 for the diesel UST indicated a suspected release that was not reported. Additionally, ATG test results for November and December of 2020 and January of 2021 for the regular unleaded UST indicated a suspected release that was not reported.
2. Failed to investigate and confirm all suspected releases of regulated substances requiring reporting under 30 TEX. ADMIN. CODE § 334.72 (relating to Reporting of Suspected

Releases) within 30 days, in violation of 30 TEX. ADMIN. CODE § 334.74. Specifically, ATG test results for the regular unleaded and diesel UST indicated suspected releases that were not investigated.

3. Failed to ensure that all installed spill containment devices are maintained in good operating condition, in violation of 30 TEX. ADMIN. CODE § 334.51(a)(6) and TEX. WATER CODE § 26.3475(c)(2). Specifically, the spill bucket for the regular unleaded UST failed the triennial spill bucket test and would no longer prevent a release to the environment.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

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

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: ASPK PROPERTIES LLC dba Big Z Food Mart, Docket No. 2021-0453-PST-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent.
4. If the 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, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the

Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Order, issued by the Commission, shall not be admissible against the 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 the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.



### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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



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

\_\_\_\_\_  
Date

12/13/2021

\_\_\_\_\_  
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, if any, 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 submitted;
- 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, any falsification of any compliance documents may result in criminal prosecution.

\_\_\_\_\_  
Signature



\_\_\_\_\_  
Date

07-01-2021

\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
ASPK PROPERTIES LLC dba Big Z Food Mart

Sam Bath

\_\_\_\_\_  
Title

owner

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