#### BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 7

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		REGIONAL LEARNING CLERK
In the matter of:	)	
	)	
	)	
B & K Petroleum Corporation	)	U.S. EPA Docket No.:
d/b/a Infinite Oil	)	RCRA-07-2010-0020
3824 Hamilton Street	)	
Omaha, Nebraska 68131	)	
	)	
Respondent	)	

#### COMPLAINANT'S RESPONSE TO ORDER TO SUPPLEMENT RECORD

Complainant, the Environmental Protection Agency, Region 7 and, in response to the Regional Judicial Officer's "Order to Supplement Record" (Order) issued in this matter, hereby submits the "penalty calculation worksheet" requested in the Order. The "penalty calculation worksheet" is attached hereto and is marked "Exhibit 1".

Date

Respectfully submitted,

Raymond C. Bosch

Assistant Regional Counsel

U.S. EPA Region 7

901 North Fifth Street

Kansas City, Kansas 66101

Bosch.Raymond@epa.gov

(913) 551-7501 Voice

(913) 551-7925 FAX

#### **CERTIFICATE OF SERVICE**

I hereby certify that the original and one true and correct copy of the foregoing were hand delivered to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 7, 901 North Fifth Street, Kansas City, Kansas 66101; and a true and correct copy were sent by U.P.S., receipt information requested, to Mohammed Ali, Registered Agent, B & K Corporation, 215 North Prospect Avenue, Streamwood, ILL 60107 on this 30 day of July 2011.

Raymond C. Bosch

**Assistant Regional Counsel** 

### B&K Petroleum Corp - 2411 North 30th St. Summary of Violations Violations Cited

Violation #1

§40 CFR 280.31(d) - Failure to maintain records of corrosion protection (CP) inspections for tank #1 and #2

Violation #2

§40 CFR 280.31(b) - Failure to ensure proper operation of corrosion protection system. The three year CP test has not been performed

Violation #3

§40 CFR 280.44(a) - Failure to provide adequate testing for piping system. The required annual function test (FT) has not been perform

Violation #4

Violation #5

§40 CFR 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping. The required annual line tightness test (LTT) has not bee

§40 CFR 280.45 - Failure to maintain records of release detection monitoring. UST system owners and operators must maintain records

Violation #6

compliance with all applicable requirements of this subpart.

§40 CFR 280.31(c) - Failure to inspect impressed current system every 60 days

Violation #7

§40 CFR 280.31(a) - Failure to operate and maintain corrosion protection(CP) system. EPA inspector performed test on the system anc least 850 mV, therefore the CP system was not operational and was not providing corrosion protection to tank #1 and #2 system.

Penalties (see worksheets for specific information)

Violation #1 \$446.13

Violation #2 \$3,346.01

Violation #3

\$13,491.04

Violation #4

\$13,505.04
Violation #5
\$6,692.02
Violation #6
\$3,996.01
Violation #7
\$9,701.03

TOTAL \$51,177.26

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Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 2411 North 30th St.

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.31(d) - Failure to maintain records of corrosion protection (CP) inspections for tank #1 and #2

Sensitivity (ESM)  Multiplier  Days of Noncompliance Multiplier  3  Sulfation Activatments (see other worksheet)  TOTAL Gravity Based Component  Economic Benefit (BEN) calculation  TOTAL PENALTY	Moderate Moderate 0% or non cooperation 0% noc 5% ncc 0%	Line Item         CItation           1 UST Violation Penalty         280.31(d)           2 # of USTs         1           Start of Violation         12/22/2008           End of Violation         4/1/2010           3 Days of Gravity         465           Matrix Value - Extent         Potential for
\$105.00 \$315.00 \$446.13 \$446.13 \$0.00	Minor 100.00 0.00 0.00 5.00 5.00 5.00 5.00	Matrix Value 100.00 100.00
	History of non-compliance - This is the first time the facility has been inspected by EPA  Emvironmental Sensitivity - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.  Economic Benefit calculation (BEN) - Annually recurring cost of \$300 for inspection of the CP system. Non-comppliance period starts on December 28, 2007 (date when current owner aquired the property) and goes through April 1, 2010	Comments/Basis  Days of Gravity - Given the lack of documentation and compliance history at the site it has been decided to use the statue of limitation (5 years) for the days of gravity calculation  Degree of cooperation or non cooperation - Not enough information from the owner to justify adjustment

\$4.6.13	1.4163	3.00	1.00	\$105
		псе		Value
	Adjustment	NonComplia Adjustment	Sensitivity	_
GBPenalty		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Adj	Violator Specific Adjustment to the Matrix Value
Adjustment Factor  Degree of Cooperation/Noncooperation	Retween 50% increase and 25% decrease
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only  Between 50% increase and 25% decrease

-25% -20% -15% -10% -5% -0% -5% -5% -20% -20% -25% -20% -25% -20% -25% -25%

50% Inflations adjustment

1.1 1.2895 1.4163

Based on 1990 UST Penalty Policy (per UST)
Company Name: B&K Petroleum Corp - 2411 North 30th St.
Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro
Penalty Calculation prepared by: Wilfredo Rosado-Chaparro
Regulations Violated: §40 CFR 280.31(b) - Failure to ensure proper operation of corrosion protection system, no three year CP test on tanks #1 and #2

TOTAL PENALTY	Economic Benefit (BEN) calculation	TOTAL Gravity Based Component	Inflation Adjustments (see other worksheet) 1.4163	Days of Noncompliance Multiplier 3	Multiplier 1.0	Sensitivity (ESM)	Environmental	Adjustment Matrix Value	U Sum of Specific Adjustments	Unique factors 0%	ompliance	Degree of willfulness or negligence 0%	ation	TOTAL Matrix Value Moderate	of Deviation Major Harm	ctent	3 Days of Gravity 465	End of Violation 4/1/2010	Start of Violation 12/22/2008	2 # of USTs ↑	1 UST Violation Penalty 280.31(b) Major-Moderati	Line Item Citation
\$3,346.01	\$0.00	\$3.346.01	\$3,346.01	\$2,362.50	\$787.50			787.50	37.50	0.00	37.50	0.00	0.00	750.00	Moderate		3.00			750.00		Matrix Value
								when current owner aguired the pro	of the CP system. Non-compoliance	repair or replace CP system and an	Economic Benefit calculation (BE	no drinking water wells and site geo	Emvironmental Sensitivity - Low	inspected by EPA	History of non-compliance - This	contour to Judenty adjudentical	nwher to justify adjustment	Degree of cooperation or non coo	gravity calculation	site it has been decided to use the	Days of Gravity - Given the lack of	Comments/Basis

of documentation and compliance history at the statue of limitation (5 years) for the days of

ooperation - Not enough information from the

is is the first time the facility has been

an Annually recurring cost of \$300 for inspection nce period starts on December 28, 2007 (date N - There are no surface water bodies nearby, eology consists mostly of clay like material.
 3EN) - One time capital cost of \$2,361.00 to operty) and goes through April 1, 2010.

\$3,346,01	1.4163	3.00	1.00	\$788
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	it (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Ad	Violator Specific Adjustment to the Matrix Value
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only  Between 50% increase and 25% decrease

-25% -20% -15% -10% -5%

5% 10% 15% 20% 25% 30% 40%

50% Inflations adjustment

1.1 1.2895 1.4163

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 2411 North 30th St.

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.44(a) - Failure to provide adequate testing for piping system, no annual function test (FT)

	\$13,491.04			TOTAL PENALTY	
	\$107.00		n	Economic Benefit (BEN) calculation	
	\$13,384.04		nent	TOTAL Gravity Based Component	
	\$13,384.04	1.4163	r worksheet)	Inflation Adjustments (see other workshi	
	\$9,450.00	ယ	plier	Days of Noncompliance Multiplier	
	\$3,150.00	1.0		Multiplier	
				Sensitivity (ESM)	
		•		Environmental	
	3150.00			17 Adjustment Matrix Value	
	150.00			10 Sum of Specific Adjustments	
an annual function test. Non-compoliance period starts on March 17	0.00	0%		9 Unique factors	
Economic Benefit calculation (BEN) -	150.00	5%		8 History of noncompliance	
no drinking water wells and site geology consists mostly of clay like material.	0.00	0%		/ Degree of willfulness or negligence	
Emvironmental Sensitivity - Low - There are no surface water bodies nearby.	0.00	0%	tion	6 Degree of cooperation or non cooperation	
from 3/17/2009.	3000.00		Major	5 TOTAL Matrix Value	
History of non-compliance - 5% penalty taking into account NF inspection	Major	Harm	Major	4 of Deviation	
Series to Juvenia adjustmissing	•	Potential for		Matrix Value - Extent	
owner to justify adjustment	3.00	465		3 Days of Gravity	
Degree of cooperation or non-cooperation - Not enough information from the		010	4/1/2010	End of Violation	
•		008	12/22/2008	Start of Violation	
Marshall inspected the facility on 3/17/2009.	3000.00	2		2 # of USTs	
Days of Gravity - 380 days of gravity starting at the date when the Nebraska Fire	1500.00		280.44(a)	1 UST Violation Penalty	
Comments/Basis	Matrix Value		Citation	Line item	

1.4163 S13.384.04		3.00	1.00	\$3,150
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Adji	Violator Specific Adjustment to the Matrix Value
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

-25% -20% -15% -10% -5% 0%

5% 10% 15% 20% 25% 30% 40%

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 2411 North 30th St.

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro
Penalty Calculation prepared by: Wilfredo Rosado-Chaparro
Regulations Violated: §40 CFR 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping, no annual line tightness test (LTT)

a serior	Line Item  1 IIST Violation Penalty	
200:41(0)(1)(1)	Citation 280 41/h)/11/ii)	
1000,00	Matrix Value	772
Days of Gravity - 340 days of gravity stating at the date when the Nephaska Fire	Comments/Basis	

	\$121.00		tion	Economic Benefit (BEN) calculation
	\$13,384.04		onent	TOTAL Gravity Based Component
	\$13,384.04	1.4163	er worksheet)	initation Adjustments (see other worksheet
	\$9,450.00	ω	tiplier	Days of Noncompliance Multiplier
	\$3,150.00	1.0		Multiplier
				Sensitivity (ESM)
				Environmental
2010	3150.00			11 Adjustment Matrix Value
2007 (date when current owner aquired the property) and goes through April 1.	150.00			10 Sum of Specific Adjustments
an annual line tightness test. Non-comppliance period starts on December 28,	0.00	0%		9 Unique factors
Economic Benefit calculation (BEN) - Annually recurring cost of \$75 for	150.00	5%		8 History of noncompliance
no drinking water wells and site geology consists mostly of clay like material.	0.00	0%		7 Degree of willfulness or negligence
Emvironmental Sensitivity - Low - There are no surface water bodies nearby,	0.00	0%	ration	6 Degree of cooperation or non cooperation
from 4/21/2009.	3000.00		Major	5 TOTAL Matrix Value
History of non-compliance - 5% penalty taking into account NE inspection	Major	Harm	Major	4 of Deviation
		Potential for		Matrix Value - Extent
owner to justify adjustment	3.00	465		3 Days of Gravity
Degree of cooperation or non cooperation - Not enough information from the		4/1/2010	4/1/	End of Violation
		2008	12/22/2008	Start of Violation
Marshall inspected the facility on 4/21/2009.	3000.00	2		2 # of USTs
Days of Gravity - 345 days of gravity starting at the date when the Nebraska Fire	1500.00	(1)(ii)	280.41(b)(1)(ii)	1 UST Violation Penalty
	2010001100			

1.4163 \$13,354.04		3.00	1.00	\$3,150
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

TOTAL PENALTY

\$13,506.04

_	Violator Specific Adji	Violator Specific Adjustment to the Matrix Value
<b>~</b>	Adjustment Factor	Range of Percentage Adjustment
	Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
	Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
ОТ	History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

Major **Moderate** Minor

-25% -20% -15% -10% -5%

5% 10% 15% 20% 25% 30% 35% 40%

Based on 1990 UST Penalty Policy (per UST)

Date of Inspection: 11/05/2009 Company Name: B&K Petroleum Corp - 2411 North 30th St.

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.45 - Failure to maintain records of release detection monitoring

\$4,725.00 \$6,692.02 \$6,692.02 \$0.00 \$6,692.02	1.4163	rkshoot)	Days of Noncompliance Multiplier Inflation Adjustments (see other workshoot) TOTAL Gravity Based Component Economic Benefit (BEN) calculation TOTAL PENALTY
\$1,575.00		1.0	Environmental Sensitivity (ESM) Multiplier
1575.00			11 Adjustment Matrix Value
75.00			10 Sum of Specific Adjustments
0.00		0%	9 Unique factors
75.00	0	5%	8 History of noncompliance
0.00	0	0%	7 Degree of willfulness or negligence
0.00	•	0%	6 Degree of cooperation or non cooperation
1500.00		Major	5 TOTAL Matrix Value
Major	Harm	Major	4 of Deviation
	Potential for		Matrix Value - Extent
3.00	O <sub>1</sub>	465	3 Days of Gravity
	0	4/1/2010	End of Violation
	w	12/22/2008	Start of Violation
1500.00	-	- 20	2 # of USTs
1500.00	OI .	280.45	1 UST Violation Penalty
Matrix Value		Citation	Line Item

gravity calculation site it has been decided to use the statue of limitation (5 years) for the days of Comments/Basis

Days of Gravity - Given the lack of documentation and compliance history at the

owner to justify adjustment Degree of cooperation or non cooperation - Not enough information from the

inspected by EPA History of non-compliance - This is the first time the facility has been

an annual line tightness test. Non-comppliance period starts on December 28, no drinking water wells and site geology consists mostly of clay like material. Emvironmental Sensitivity - Low - There are no surface water bodies nearby. 2007 (date when current owner aquired the property) and goes through April 1, Economic Benefit calculation (BEN) -Annually recurring cost of \$75 for

\$6,692.02	1.4163	3.00	1.00	\$1,575
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
<b>GBPenalty</b>		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Adj	Violator Specific Adjustment to the Matrix Value
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

Major **Moderate** Minor

-25% -20% -15% -10% -5% 0% 15% 20% 25% 30% 35% 40% 5%

Based on 1990 UST Penalty Policy (per UST)
Company Name: B&K Petroleum Corp - 2411 North 30th St.

Date of Inspection: 11/05/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.31(c) - Failure to inspect impressed current system every 60 days

\$3,996.01				TOTAL PENALTY
\$650.00				Economic Benefit (BEN) calculation
\$3,346.01			at	TOTAL Gravity Based Component
\$3,346.01	1.4163	.0	orkshee	Inflation Adjustments (see other workshi
\$2,362.50		ω	Z.	Days of Noncompliance Multiplier
\$787.50		1.0		Multiplier
				Sensitivity (ESM)
ľ				Environmental
787.50				11 Adjustment Matrix Value
37.50				10 Sum of Specific Adjustments
0.00		0%		9 Unique factors
37.50		5%		8 History of noncompliance
0.00		0%		7 Degree of willfulness or negligence
0.00		0%		6 Degree of cooperation or non cooperation
750.00			Major	5 TOTAL Matrix Value
Major			Major	4 of Deviation
	Potential for			Matrix Value - Extent
3,00		465		3 Days of Gravity
		4/1/2010	. 4	End of Violation
		12/22/2008	12/2	Start of Violation
750.00		_		2 # of USTs
750.00	la	୍ତ <sup> </sup>	280.31 ( c)	1 UST Violation Penalty
Anti- Value		3	Citatio	line fam

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gravity calculation site it has been decided to use the statue of limitation (5 years) for the days of Days of Gravity - Given the lack of documentation and compliance history at the

owner to justify adjustment Degree of cooperation or non cooperation - Not enough information from the

inspected by EPA History of non-compliance - This is the first time the facility has been

an annual line tightness test. Non-comppliance period starts on December 28, Emvironmental Sensitivity - Low - There are no surface water bodies nearby, 2007 (date when current owner aquired the property) and goes through April 1, Economic Benefit calculation (BEN) -Annually recurring cost of \$75 for no drinking water wells and site geology consists mostly of clay like material.

\$3,346,01	1.4163	3.00	1.00	\$788
		nce		Value
,		NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009	x Enviro	Adjusted x Enviro
	ıt (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Adj	Violator Specific Adjustment to the Matrix Value
Adjustment Factor  Degree of Cooperation/Noncooperation	Range of Percentage Adjustment Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

-25% -20% -15% -10% -5% 10% 15% 20% 25% 30% 35% 40% 5%

Based on 1990 UST Penalty Policy (per UST)
Company Name: B&K Petroleum Corp - 2411 North 30th St.

Date of Inspection: 11/05/2009
Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro
Regulations Violated: §40 CFR 280.31(a) - Failure to operate and maintain corrosion protection(CP) system, CP system not operational on tank #1 and #2 systems

TOTAL PENALTY	Economic Benefit (BEN) calculation	TOTAL Gravity Based Component	White Adjustralls (see other worksteet)	Days of Noncompliance Multiplier 3	Multiplier 1.5	Sensitivity (ESM)	Environmental	11 Adjustment Matrix Value	10 Sum of Specific Adjustments	9 Unique factors 0%	8 History of noncompliance 0%	7 Degree of willfulness or negligence 0%	ation	5 TOTAL Matrix Value Major	4 of Deviation Major Harm	xtent		End of Violation 4/1/2010	Start of Violation 11/5/2009	2 # of USTs 1	1 UST Violation Penalty 280.31(a) Major-Major	Line Item Citation
\$9,701.03	\$141.00	\$9,560.03	1.4163 \$9,560.03	\$6,750.00	\$2,250.00			1500.00	0.00	0.00	0.00	0.00	0.00	1500.00	Major	Potential for	<b>1</b>			1500.00	-Major 1500.00	Matrix Value
								when current owner aquired the property) and goes through April 1, 2010.	of the CP system. Non-comppliance period starts on December 28, 2007 (date	repair or replace CP system and an Annually recurring cost of \$300 for inspection	Economic Benefit calculation (BEN) - One time capital cost of \$2,361,00 to	no drinking water wells and site geology consists mostly of clay like material.	Emvironmental Sensitivity - Low - There are no surface water bodies nearby.	inspected by EPA	History of non-compliance - This is the first time the facility has been	owner to justify adjustment	Constitution of the control of the c	Degree of congression or non-congression. Not onclude information from the	gravity calculation	site it has been decided to use the statue of limitation (5 years) for the days of	Days of Gravity - Given the lack of documentation and compliance history at the	Comments/Basis

\$3,186,68	1.4163	1.50	1.00	\$1,500
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Up to 50% increase only Between 50% increase and 25% decrease	History of Noncompliance Other Unique Factors
Between 50% increase and 25% decrease	Degree of Willfulness or Negligence
Violator Specific Adjustment to the Matrix Value Range of Percentage Adjustment on/Noncooperation Between 50% increase and 25% decrease	Adjustment Factor  Degree of Cooperation/Noncooperation

Major **Moderate** Minor

-25% -20% -15% -10% -5% 5% 10% 15% 20% 25% 30% 35% 40%

Days of Gravity	
0-90	1.0
91-180	<u>1</u> .5
181-270	2.0
271-365	2.5
Each additional 6 months	0.5
or fraction thereof	

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From and including: Start date12/22/2008 to 4/01/2010, except for violation 280.31(a)

Total number of days of Non-compliance: 465

http://www.timeanddate.com/date/durationresult.html?m1=08&d1=26&y1=1993&m2=08&d2=26&y2=2009&ti=on

ToniM	Moderate 1000	Major 1500	
	from Requirement	Extent of Deviation	

100

200

500 Major 250 Moderate 50 Minor

# EPA's Civil Penalty Policy Inflation Adjustments

### UST Penalty Policy issued 11/14/1990

- 2009 Inflation Adjustment Policy
  1 Calculate Gravity Component
  2 For violations after 1/30/1997 through 3/15/2004
  3 For violations after 3/15/2004 through 1/12/2009
  4 For violations after 1/12/2009

#### Factor Explanation

- 1.1 Initial Inflation rate
  1.2895 base Inflations rate 1.1 + 17.23% increase
  1.4163 Base Infaltion rate + 17.23% + 9.83% increase

#### B&K Petroleum Corp - 3874 Hamilton St. **Summary of Violations** Violations Cited

#### Violation #1

operators must continue operation and maintenance of any release detection in accordance with subpart D. §40 CFR 280.70(a) - Failure to continue operation maintenance of release detection in a temporarily closed tank system. When an UST

#### Violation #2

compliance with all applicable requirements of this subpart. §40 CFR 280.45 - Failure to maintain records of release detection monitoring. UST system owners and operators must maintain records

#### Violation #3

§40 CFR 280.70(b)(2) - Failure to comply with temporary closure requirements for tank systems. The dispensers at the facility were not

#### Violation #4

§40 CFR 280.41(a) - Failure to monitor tanks at least every 30 days. Tanks must be monitored at least every 30 days for releases using The inspector was unable to access ATG and very operational status.

Penalties (see worksheets for specific information)

Violation #1

\$6,692.02

Violation #2 \$6,692.02

Violation #3

\$1,593.34

Violation #4 \$20,076.05

TOTAL \$35,053.43

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 3874 Hamilton St.

Date of Inspection: 11/04/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

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TOTAL PENALTY	Economic Benefit (BEN) calculation	inflation Adjustments (see other worksheet	Days of Noncompliance Multiplier	Multiplier	Sensitivity (ESM)	Environmental	11 Adjustment Matrix Value	10 Sum of Specific Adjustments	9 Unique factors	8 History of noncompliance	7 Degree of willfulness or negligence	<ol><li>Degree of cooperation or non cooperation</li></ol>	5 TOTAL Matrix Value	4 of Devlation	Matrix Value - Extent	3 Days of Gravity	Start of Violation	2 # of USTs	1 UST Violation Penalty	<u>Line Item</u>
	alculation	e other worksheet) 1.4163	Multiplier 3	1.0					0%	5%		cooperation 0%	Major	Major Harm	Potential for	4/1/2010 380	3/17/2009	_	280.70(a)	Citation
\$6,692.02	\$6,692.02 \$0.00	3 \$6,692.02	\$4,725.00	\$1,575.00			1575.00	75.00	0.00	75.00	0.00	0.00	1500.00	Major	3.00	3		1500.00	1500.00	Matrix Value
								2007 (date when current owner aquired the property) and goes through April 1.	inspection of the CP system. Non-comppliance period starts on December 28.		no drinking water wells and site geology consists mostly of clay like material.	Emvironmental Sensitivity - Low - There are no surface water bodies nearby.	inspected by EPA	History of non-compliance - This is the first time the facility has been	owner to justify adjustment	Degree of cooperation or non cooperation - Not enough information from the	gravity calculation	site it has been decided to use the statue of limitation (5 years) for the days of	Days of Gravity - Given the lack of documentation and compliance history at the	Comments/Basis

Value Matrix

\$1,575

1.00

3.00

1,4163

\$6,692,02

Other Unique Factors History of Noncompliance

Between 50% increase and 25% decrease

Up to 50% increase only

Between 50% increase and 25% decrease

Between 50% increase and 25% decrease

Range of Percentage Adjustment

Degree of Willfulness or Negligence

Degree of Cooperation/Noncooperation

Adjustment Factor

Violator Specific Adjustment to the Matrix Value

псе

NonComplia Adjustment

Adjusted

x Enviro Sensitivity

X Days of

x 2009

GBPenalty

Gravity Based Component (GBC)

-25% -20% -15% -10% -5% 5% 10% 15% 20% 25% 30% 40%

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 3874 Hamilton St. Date of Inspection: 11/04/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.45 - Failure to maintain records of release detection monitoring

40.780.0¢			CIRC ENGL.
2000			TOTAL DENALTY
\$0.00			Economic Benefit (BEN) calculation
\$6,692.02			TOTAL Gravity Based Component
\$6,692.02	1.4163	(shoet)	Inflation Adjustments (see other worksheet)
\$4,725.00		ω	Days of Noncompliance Multiplier
\$1,575.00		1.0	Multiplier
			Sensitivity (ESM)
			Environmental
1575.00			11 Adjustment Matrix Value
75.00			10 Sum of Specific Adjustments
0.00		0%	9 Unique factors
75.00		5%	8 History of noncompliance
0.00		0%	7 Degree of willfulness or negligence
0.00		0%	6 Degree of cooperation or non cooperation
1500.00		Major	5 TOTAL Matrix Value
Major	Harm	Major	4 of Deviation
	Potential for		Matrix Value - Extent
3.00		380	3 Days of Gravity
		4/1/2010	End of Violation
		3/17/2009	Start of Violation
1500.00		_	2 # of USTs
1500.00		280.45	1 UST Violation Penalty
Matrix Value		Citation	Line Item

#### Comments/Basis

site it has been decided to use the statue of limitation (5 years) for the days of gravity calculation Days of Gravity - Given the lack of documentation and compliance history at the

owner to justify adjustment Degree of cooperation or non cooperation - Not enough information from the

inspected by EPA History of non-compliance - This is the first time the facility has been

an annual line tightness test. Non-comppliance period starts on December 28, 2007 (date when current owner aquired the property) and goes through April 1, Economic Benefit calculation (BEN) -Annually recurring cost of \$75 for no drinking water wells and site geology consists mostly of clay like material. Emvironmental Sensitivity - Low - There are no surface water bodies nearby,

\$6,692.02	1.4163	3.00	1.00	\$1,575
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009	x Enviro	Adjusted x Enviro
	rt (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Adjust	Violator Specific Adjustment to the Matrix Value
Adjustment Factor R	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation B	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence B	Between 50% increase and 25% decrease
History of Noncompliance U Other Unique Factors B	Up to 50% increase only Between 50% increase and 25% decrease

-25% -25% -20% -15% -10% -5% 0%

5% 10% 15% 20% 25% 30% 35% 40%

50% Inflations adjustment

1.1 1.2895 1.4163

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 3874 Hamilton St.

Date of Inspection: 11/04/2009

Case Handler: Wilfredo Rosado-Chaparro
Penalty Calculation prepared by: Wilfredo Rosado-Chaparro
Regulations Violated: §40 CFR 280.70(b)(2) – Failure to comply with temporary closure requirements for tank systems.

	\$1,593,34			TOTAL PENALTY
	\$0.00		ň	Economic Benefit (BEN) calculation
	\$1,593.34		nent	TOTAL Gravity Based Component
	\$1,593.34	1.4163	worksheet)	unliation Adjustments (see other works
	\$1,125.00	1.5s	oliei	Days of Noncompliance Multiplier
	\$750.00	1.0		Multiplier
				Sensitivity (ESM)
				Environmental
2010	750.00			1 Adjustment Matrix Value
2007 (date when current owner aquired the property) and goes through April 1,	0.00			O Sum of Specific Adjustments
an annual line tightness test. Non-comppliance period starts on December 28,	0.00	0%		9 Unique factors
Economic Benefit calculation (BEN) - Annually recurring cost of \$75 for	0.00	0%		3 History of noncompliance
no drinking water wells and site geology consists mostly of clay like material.	0.00	0%		/ Degree of willfulness or negligence
Emvironmental Sensitivity - Low - There are no surface water bodies nearby.	0.00	0%	ion	6 Degree of cooperation or non cooperation
inspected by EPA	750.00		Moderate	5 TOTAL Matrix Value
History of non-compliance - This is the first time the facility has been	Moderate	Harm	Major	4 of Deviation
Owner to Judin's adjustition		Potential for		Matrix Value - Extent
Owner to inetify adjustment	1.50	148	i	3 Davs of Gravity
Gravity calculation or non cooperation - Not enough information from the		010	4/1/2010	End of Violation
site it has been decided to use the statue of limitation (5 years) for the days of	750.00	3		2 # of USTs
Days of Gravity - Given the lack of documentation and compliance history at the	750.00	2)	280.70(b)(2)	1 UST Violation Penalty
Comments/Basis	Matrix Value		Citation	Line Item

Ty and Mark	7.410	1.50		# 200
			1 00	\$750
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Adjustment Factor  Degree of Cooperation/Noncooperation  Range of Percentage Adjustment  Between 50% increase and 25% decrease  Degree of Willfulness or Negligence  Between 50% increase and 25% decrease  Up to 50% increase only  Other Unique Factors  Degree of Percentage Adjustment  Range of Percentage Adjustment  Degree of Percentage Adjustment  Degree	Violator Specific Adju	Violator Specific Adjustment to the Matrix Value
n/Noncooperation or Negligence	Adjustment Factor	Range of Percentage Adjustment
or Negligence	Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
nce	Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
	 History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

1.0 =LOW 1.5 =Medium 2.0 =HIGH

-25% -20% -15% -10% -5%

5% 10% 15% 20% 25% 30% 35% 40%

50% Inflations adjustment

1.1 1.2895 1.4163

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 3874 Hamilton St. Date of Inspection: 11/04/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.41(a) - Failure to monitor tanks at least every 30 days.

\$20,076.05			TOTAL PENALTY
\$0.00			Economic Benefit (BEN) calculation
\$20.076.05			TOTAL Gravity Based Component
\$20,076.05	1.4163	(sheet)	inflation Adjustments (see other worksheet)
\$14,175.00		ယ	Days of Noncompliance Multiplier
\$4,725.00		1.0	Multiplier
			Sensitivity (ESM)
	•		Environmental
4725.00			11 Adjustment Matrix Value
225.00			10 Sum of Specific Adjustments
0.00		0%	9 Unique factors
225.00		5%	8 History of noncompliance
0.00		0%	7 Degree of willfulness or negligence
0.00		0%	6 Degree of cooperation or non cooperation
4500.00		Major	5 TOTAL Matrix Value
Major	Harm	Major	
	Potential for		Matrix Value - Extent
3.00		380	3 Days of Gravity
		4/1/2010	End of Violation
		3/17/2009	Start of Violation
4500.00		ω	2 # of USTs
<u>Matrix Value</u> 1500.00		<u>Citation</u> 280.41(a)	1 UST Violation Penalty

### Comments/Basis

site it has been decided to use the statue of limitation (5 years) for the days of gravity calculation Days of Gravity - Given the lack of documentation and compliance history at the

owner to justify adjustment Degree of cooperation or non cooperation - Not enough information from the

inspected by EPA History of non-compliance - This is the first time the facility has been

2007 (date when current owner aquired the property) and goes through April 1, an annual line tightness test. Non-comppliance period starts on December 28, Economic Benefit calculation (BEN) -Annually recurring cost of \$75 for no drinking water wells and site geology consists mostly of clay like material. Emvironmental Sensitivity - Low - There are no surface water bodies nearby,

1.4163 \$20,076.05		3.00	1.00	\$4,725
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	ıt (GBC)	Gravity Based Component (GBC)	Gravity Bas	

n/Noncooperation or Negligence ince	Violator Specific Adj	Violator Specific Adjustment to the Matrix Value
n/Noncooperation or Negligence ince	Adjustment Factor	Range of Percentage Adjustment
or Negligence Ince	Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
ince	Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
	History of Noncompliance Other Unique Factors	Up to 50% increase only  Between 50% increase and 25% decrease

-25% -20% -15% -10% -5%

5% 10% 15% 20% 25% 30% 35% 40%

	or fraction thereof
0.5	Each additional 6 months
2.5	271-365
2.0	181-270
1.5	91-180
1.0	0-90
	Days of Gravity

	0.5	2.5	2.0	1.5
Year 5	Year 4	Year 3	Year 2	Each ,
0.	_	<b></b>		Each Additional Year Multiplic
_	<u>ب</u>		_	al Year N
				<i>f</i> lultiplier
				•

From and including: Start date 3/17/2009 to 4/01/2010, except for violations 280.70(b)(2)

Total number of days of Non-compliance: 380

http://www.timeanddate.com/date/durationresult.html?m1=08&d1=26&y1=1993&m2=08&d2=26&y2=2009&ti=on

4.6		
2	200	100
Pots	094	200
۵	1200	1000
	Major	Moderate
	<b>Extent of Deviation</b>	from Requirement

500 Major 250 Moderate 50 Minor

Minor

### B&K Petroleum Corp - 5188 Leavenworth St. Summary of Violations Violations Cited

#### Violation #1

operators must continue operation and maintenance of any release detection in accordance with subpart D. EPA inspector observed the §40 CFR 280.70(a) - Failure to continue operation maintenance of release detection in a temporarily closed tank system. When an UST

#### Violation #2

§40 CFR 280.45 - Failure to maintain records of release detection monitoring. UST system owners and operators must maintain records compliance with all applicable requirements of this subpart.

#### Violation #3

§40 CFR 280.70(b)(2) - Failure to comply with temporary closure requirements for tank systems. The dispensers at the facility were not

#### Violation #4

EPA inspector observed that the facility's ATG was not operational. §40 CFR 280.41(a) - Failure to monitor tanks at least every 30 days. Tanks must be monitored at least every 30 days for releases using

Violation #5 §40 CFR 280.44(a) - Failure to provide adequate testing for piping system. The required annual function test (FT) h ot been perform

T) has not bee

\$6,692.02 Violation #3	Penalties (see worksheets for specific information) Violation #1 \$6,692.02 Violation #2	Violation #6 §40 CFR 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping. The required annual line tightness test (LT
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\$1,593.34

Violation #4 \$13,384.04

Violation #5 \$13,384.04

Violation #6 \$13,384.04

TOTAL \$55,129.48

# UST Penalty Policy Calculation Based on 1990 UST Penalty Policy (per UST) Company Name: B&K Petroleum Corp - 5188 Leavenworth St Date of Inspection: 11/04/2009

Case Handier: Wilfredo Rosado-Chaparro
Penalty Calculation prepared by: Wilfredo Rosado-Chaparro
Regulations Violated: §40 CFR 280.70(a) - Failure to continue operation maintenance of release detection in a temporarily closed tank system.

TOTAL PENALTY	Economic Benefit (BEN) calculation	TOTAL Gravity Based Component	Inflation Adjustments (see other worksheet) 1.4163	Days of Noncompliance Multiplies 3	Multiplier 1.0	Sensitivity (ESM)	Environmental	11 Adjustment Matrix Value	10 Sum of Specific Adjustments	9 Unique factors 0%	8 History of noncompliance 5%	7 Degree of willfulness or negligence 0%	6 Degree of cooperation or non cooperation 0%	5 TOTAL Matrix Value Major	4 of Deviation Major Harm	ktent	3 Days of Gravity 380	End of Violation 4/1/2010	Start of Violation 3/17/2009	2 # of USTs	1 UST Violation Penalty 280.70(a)	<u>Line Item</u> <u>Citation</u>
\$6.592.02	\$0.00	\$6,692.02	63 \$6,692.02	\$4,725.00	\$1,575.00			1575.00	75.00	0.00	75.00	0.00	0.00	1500.00	Major		3.00			1500.00	1500.00	Matrix Value
								2010	2007 (date when current owner aquired the property) and goes through April 1,	inspection of the CP system. Non-comppliance period starts on December 28,	Economic Benefit calculation (BEN) - Annually recurring cost of \$300 for	no drinking water wells and site geology consists mostly of clay like material.	Emvironmental Sensitivity - Low - There are no surface water bodies nearby,	inspected by EPA	History of non-compliance - This is the first time the facility has been		owner to justify adjustment	Degree of cooperation or non cooperation - Not enough information from the	gravity calculation	site it has been decided to use the statue of limitation (5 years) for the days of	Days of Gravity - Given the lack of documentation and compliance history at the	Comments/Basis

1.4163 \$6,692.02		3.00	1.00	\$1,575
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Ad	Violator Specific Adjustment to the Matrix Value
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

1.0 =LOW 1.5 =Medium 2.0 =HIGH

-25% -20% -15% -10% -5% -5% -5% -5% -5% -20% -25% -20% -25% -20% -25% -20% -25% -25% -25% -25% -25% -25%

Company Name: B&K Petroleum Corp - 5188 Leavenworth St. Based on 1990 UST Penalty Policy (per UST)

Date of Inspection: 11/04/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.45 - Failure to maintain records of release detection monitoring

TOTAL PENALTY	Economic Benefit (BEN) calculation	inhation Adjustments (see other worksheet)	Days of Noncompliance Multiplier	Multiplier	Sensitivity (ESM)	Environmental	11 Adjustment Matrix Value	10 Sum of Specific Adjustments	9 Unique factors	8 History of noncompliance	7 Degree of willfulness or negligence	6 Degree of cooperation or non cooperation	5 TOTAL Matrix Value Major	4 of Deviation Major	Matrix Value - Extent	3 Days of Gravity		Start of Violation 3	2 # of USTs	1 UST Violation Penalty	
		1.4163	ω	1.0					0%	5%	0%	0%	7	r Harm	Potential for	380	4/1/2010	3/17/2009		280.45	
\$8,692,02	\$6,692.02 \$0.00	\$6,692.02	\$4,725.00	\$1,575.00			1575.00	75.00	0.00	75.00	0.00	0.00	1500.00	Major		3.00			1500.00	1500.00	

gravity calculation site it has been decided to use the statue of limitation (5 years) for the days of Comments/Basis

Days of Gravity - Given the lack of documentation and compliance history at the

owner to justify adjustment Degree of cooperation or non cooperation - Not enough information from the

inspected by EPA History of non-compliance - This is the first time the facility has been

2007 (date when current owner aquired the property) and goes through April 1, an annual line tightness test. Non-comppliance period starts on December 28, Economic Benefit calculation (BEN) -Annually recurring cost of \$75 for Emvironmental Sensitivity - Low - There are no surface water bodies nearby. no drinking water wells and site geology consists mostly of clay like material.

\$6,692.02	1.4163	3.00	1.00	\$1,575
		псе		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009	x Enviro	Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Adj	Violator Specific Adjustment to the Matrix Value
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

-25% -20% -15% -10% -5% 0%

5% 10% 15% 20% 25% 30% 35% 40%

UST Penalty Policy Calculation

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 5188 Leavenworth St.

Date of Inspection: 11/04/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.70(b)(2) – Failure to comply with temporary closure requirements for tank systems.

	\$1,583.34		ICIAL PENALTY
	\$0.00		Economic Benefit (BEN) calculation
	\$1,593.34		TOTAL Gravity Based Component
	\$1,593.34	sheet) 1.4163	Interior Adjustments (see other workshee
	\$1,125.00	1.5	Days of Noncompliance Multiplier
	\$750.00	1.0	Multiplier
			Sensitivity (ESM)
			Environmental
	750.00		11 Adjustment Matrix Value
2007 (date when current owner aquired the property) and goes through April 1,	0.00		10 Sum of Specific Adjustments
an annual line tightness test. Non-comppliance period starts on December 28,	0.00	0%	9 Unique factors
Economic Benefit calculation (BEN) -Annually recurring cost of \$75 for	0.00	0%	8 History of noncompliance
no drinking water wells and site geology consists mostly of clay like material.	0.00	0%	7 Degree of willfulness or negligence
Emvironmental Sensitivity - Low - There are no surface water bodies nearby,	0.00	0%	6 Degree of cooperation or non cooperation
inspected by EPA	750.00	Moderate	5 TOTAL Matrix Value M
History of non-compliance - This is the first time the facility has been	Moderate	Major Harm	4 of Deviation Mi
טאווטי וע לויסוו) מעלעסוווקיונ		Potential for	Matrix Value - Extent
owner to justify adjustment	1.50	148	3 Days of Gravity
Degree of cooperation or non cooperation - Not enough information from the		4/1/2010	End of Violation
gravity calculation		11/4/2009	Start of Violation
site it has been decided to use the statue of limitation (5 years) for the days of	750.00	-	2 # of USTs
Days of Gravity - Given the lack of documentation and compliance history at the	750.00	280.70(b)(2)	1 UST Violation Penalty 28
Comments/Basis	Matrix Value	Citation	<u>Line (tem</u>

31,00000	1.4163	1.50	1.00	06/0
		nce	1 00	Value \$750
	Adjustment	NonComplia Adjustment	Sensitivity	<b>&gt;4</b>
GBPenalty		X Days of x 2009		Adjusted x Enviro
	it (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Adj	Violator Specific Adjustment to the Matrix Value
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

-25% -20% -15% -10% -5%
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50% Inflations adjustment 1.1 1.2895 1.4163

5% 10% 15% 20% 25% 30% 35% 40%

Based on 1990 UST Penalty Policy (per UST)

Date of Inspection: 11/04/2009 Company Name: B&K Petroleum Corp - 5188 Leavenworth St.

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.41(a) - Failure to monitor tanks at least every 30 days.

글		177	D	Z	S	Ţ.	11 [A	10  Su	9 U1	8 Hi	7 De	6 De	5 T.	4 of	Z.	ω D	ŭ	St	2#	_1  ∑
TAL P	OTAL	flation /	ays of 1	Multiplier	nsitivi	Environmental	ljustment	m of Spe	Unique factors	story of 1	gree of v	gree of c	DTAL M	of Deviation	ıtrix Valı	3 Days of Gravity	End of Violation	Start of Violation	2 # of USTs	ST Viola
TOTAL PENALTY	TOTAL Gravity Based Component Economic Benefit (BEN) calculation	offation Adjustments (see other worksheet	Days of Noncompliance Multiplier	7	Sensitivity (ESM)	iental	1 Adjustment Matrix Value	Sum of Specific Adjustments	tors	History of noncompliance	Degree of willfulness or negligence	Degree of cooperation or non cooperation	TOTAL Matrix Value	Š	Matrix Value - Extent	ravity	lation	olation		UST Violation Penalty
	Based (BEN) c	onts (se	pliance		<u> </u>		Value	ustment		liance	s or negi	n or non	ē		₹					alty
	Compo alculation	or other	Multip								igence	cooperat								
	nent n	CWOOKS	oliei									ion	Major	Major						280
		heet)											ğ	ğ			4/1/2010	3/17/2009		280.41(a)
			ω	1.0					0%	5%	0%	0%		표	P	380	010	009	2	
		_												Harm	Potential for					
		1.4163												_	for					
\$13	<del>\$</del> 13	\$13	<del>\$</del>	<del>53</del>										Major						1500.
\$13,384.04	\$13,384.04 \$0.00	\$13,384.04	\$9,450.00	\$3,150.00			3150.00	150.00	0.00	150.00	0.00	0.00	3000.00			3.00			3000,00	1500.00

### Comments/Basis

site it has been decided to use the statue of limitation (5 years) for the days of gravity calculation Days of Gravity - Given the lack of documentation and compliance history at the

owner to justify adjustment Degree of cooperation or non cooperation - Not enough information from the

inspected by EPA History of non-compliance - This is the first time the facility has been

2007 (date when current owner aquired the property) and goes through April 1, an annual line tightness test. Non-comppliance period starts on December 28, Economic Benefit calculation (BEN) -Annually recurring cost of \$75 for no drinking water wells and site geology consists mostly of clay like material. Emvironmental Sensitivity - Low - There are no surface water bodies nearby,

10.181.01	1.4163	3.00	1.00	\$3,150
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

Violator Specific Adj	Violator Specific Adjustment to the Matrix Value
Adjustment Factor	Range of Percentage Adjustment
Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
History of Noncompliance Other Unique Factors	Up to 50% increase only  Between 50% increase and 25% decrease

-25% -20% -15% -10% -5%

50% Inflations adjustment 1.1 1.2895 1.4163

10% 15% 20% 25% 30% 35% 40%

5%

Based on 1990 UST Penalty Policy (per UST)

Company Name: B&K Petroleum Corp - 5188 Leavenworth St.

Date of Inspection: 11/04/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.44(a) - Failure to provide adequate testing for piping system, no annual function test (FT)

TOTAL PENALTY	Economic Benefit (BEN) calculation	TOTAL Gravity Based Component	inflation Adjustments (see other worksheet)	Days of Noncompliance Multiplier	Multiplier 1.0	Sensitivity (ESM)	Environmental	11 Adjustment Matrix Value	10 Sum of Specific Adjustments	9 Unique factors 0%	ompliance	7 Degree of willfulness or negligence 0%	ation	5 TOTAL Matrix Value Major	4 of Deviation Major	3 Days of Gravity  Matrix Value - Extent	End of Violation 4/1/2	Start of Violation 3/17/2009	2 # of USTs 2	1 UST Violation Penalty 280.44(a)	Line Item Citation
\$13,384.04	\$13,384.04 \$0.00	1,4103 \$13,384.04			\$3,150.00			3150.00	150.00			0.00		3000.00	Harm Major	Potential for 3.00			3000.00	1500.00	Matrix Value
										an annual function test. Non-compoliance period starts on March 17.	Economic Benefit calculation (BEN) -	no drinking water wells and site geology consists mostly of clay like material.	Emvironmental Sensitivity - Low - There are no surface water bodies nearby.	from 3/17/2009.	History of non-compliance - 5% penalty taking into account NE inspection	owner to justify adjustment	Degree of cooperation or non cooperation - Not enough information from the	•	Marshall inspected the facility on 3/17/2009.	Days of Gravity - 380 days of gravity starting at the date when the Nebraska Fire	Comments/Basis

200 200 200				
1.4163 \$13,384,69		3.00	1.00	\$3,150
		nće		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009	x Enviro	Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

L	Detween 30 % illerease and 20% decrease	Calci Cilique I aciolo
_	Op to 50% increase only	Other Unique Eactors
	Between 50% increase and 25% decrease	Degree of Willfulness or Negligence
	Between 50% increase and 25% decrease	Degree of Cooperation/Noncooperation
	Range of Percentage Adjustment	Adjustment Factor
	Violator Specific Adjustment to the Matrix Value	Violator Specific Ac

-25% -20% -15% -10% -5% 5% 10% 15% 20% 25% 30% 40%

Based on 1990 UST Penalty Policy (per UST)
Company Name: B&K Petroleum Corp - 5188 Leavenworth St.

Date of Inspection: 11/04/2009

Case Handler: Wilfredo Rosado-Chaparro

Penalty Calculation prepared by: Wilfredo Rosado-Chaparro

Regulations Violated: §40 CFR 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping, no annual line tightness test (LTT)

	The second secon			
	\$13,384.04			TOTAL PENALTY
	\$0.00		3EN) calculation	Economic Benefit (BEN) calculation
	\$13,384.04		ased Component	I OTAL Gravity Based Component
	\$ 10,00#.O#	 		
		1 4163	fighon Adjustrants (sao ether workship)	infighan Adiustman
	\$9,450.00	ယ	liance Multiplier	Days of Noncompliance Multiplier
	\$3,150.00	1.0		Multiplier
				Sensitivity (ESM)
				Environmental
2010	3150.00		alue	11 Adjustment Matrix Value
2007 (date when current owner aquired the property) and goes through April 1.	150.00		stments	10 Sum of Specific Adjustments
an annual line tightness test. Non-comppliance period starts on December 28.	0.00	0%		9 Unique factors
Economic Benefit calculation (BEN) -Annually recurring cost of \$75 for	150.00	5%	ince	8 History of noncompliance
no drinking water wells and site geology consists mostly of clay like material.	0.00	0%	or negligence	7 Degree of willfulness or negligence
Emvironmental Sensitivity - Low - There are no surface water bodies nearby,	0.00	0%	or non cooperation	6 Degree of cooperation or non cooperation
from 4/21/2009.	3000.00			5 TOTAL Matrix Value
History of non-compliance - 5% penalty taking into account NE inspection	Major	Harm	Major	4 of Deviation
		Potential for	_	Matrix Value - Extent
owner to justify adjustment	3.00	380		3 Days of Gravity
Degree of cooperation or non cooperation - Not enough information from the		4/1/2010	4/1/	End of Violation
		2009	3/17/2009	Start of Violation
Marshall inspected the facility on 4/21/2009.	3000.00	N		2 # of USTs
Days of Gravity - 345 days of gravity starting at the date when the Nebraska Fire	1500.00	(1)(iii)	lty 280.41(b)(1)(ii)	1 UST Violation Penalty
Comments/Basis	Matrix Value		Citation	Line Item

1.4163 853,384.04		3.00	1.00	\$3,150
		nce		Value
	Adjustment	NonComplia Adjustment	Sensitivity	Matrix
GBPenalty		X Days of x 2009		Adjusted x Enviro
	t (GBC)	Gravity Based Component (GBC)	Gravity Bas	

n/Noncooperation or Negligence	Violator Specific Adj Adjustment Factor	Violator Specific Adjustment to the Matrix Value  Range of Percentage Adjustment
or Negligence Ince	Degree of Cooperation/Noncooperation	Between 50% increase and 25% decrease
nce	Degree of Willfulness or Negligence	Between 50% increase and 25% decrease
	History of Noncompliance Other Unique Factors	Up to 50% increase only Between 50% increase and 25% decrease

-25% -20% -15% -10% -5% 5% 10% 15% 20% 25% 30% 40%

	or fraction thereof
0.5	Each additional 6 months
2.5	271-365
2.0	181-270
1.5	91-180
1.0	0-90
	Days of Gravity

Vear	<b>Each Additiona</b>
4	<b>  Year</b>
	Multiplier

Year 5	Year 4	Year 3	Year 2
_	<b>-&gt;</b>	-4	_

From and including: Start date 3/17/2009 to 4/01/2010, except for violations 280.70(b)(2)

Total number of days of Non-compliance: 380

http://www.timeanddate.com/date/durationresult.html?m1=08&d1=26&y1=1993&m2=08&d2=26&y2=2009&ti=on

04030	Polid			aciol A
Requirement	mon	notisived	ìo	freant

Minor 500 Major 250 Moderate 50 Minor

Moderate 1000 500 100

or Harm

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# EPA's Civil Penalty Policy Inflation Adjustments

### UST Penalty Policy issued 11/14/1990

- 2009 Inflation Adjustment Policy
  1 Calculate Gravity Component
  2 For violations after 1/30/1997 through 3/15/2004
  3 For violations after 3/15/2004 through 1/12/2009
  4 For violations after 1/12/2009

### Factor **Explanation**

- 1.1 Initial Inflation rate
  1.2895 base Inflations rate 1.1 + 17.23% increase

1.4163 Base Infaltion rate + 17.23% + 9.83% increase