

BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 7

11 JUL 28 PM 2:10  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

In the matter of: )

B & K Petroleum Corporation )  
d/b/a Infinite Oil )  
3824 Hamilton Street )  
Omaha, Nebraska 68131 )

Respondent )

U.S. EPA Docket No.:  
RCRA-07-2010-0020

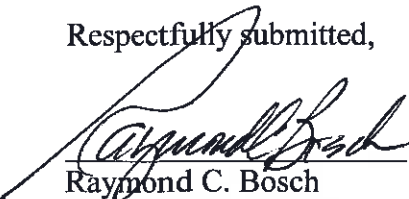
**COMPLAINANT'S RESPONSE TO ORDER TO SUPPLEMENT RECORD**

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

*July 28, 2011*

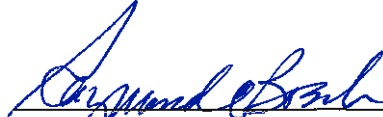
Respectfully submitted,



Raymond C. Bosch  
Assistant Regional Counsel  
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Kansas City, Kansas 66101  
[Bosch.Raymond@epa.gov](mailto:Bosch.Raymond@epa.gov)  
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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 28<sup>th</sup> day of July 2011.



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Raymond C. Bosch  
Assistant Regional Counsel

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

Exhibit 1

**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 performed

**Violation #4**

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

**Violation #5**

\$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 #6**

\$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 and found at 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**

## UST Penalty Policy Calculation

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

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.31(d)	100.00
2 # of USTs	1	100.00
Start of Violation	12/22/2008	
End of Violation	4/1/2010	
3 Days of Gravity Matrix Value - Extent	465	3.00
4 of Deviation	Moderate	Potential for Harm
5 TOTAL Matrix Value	Moderate	Minor
6 Degree of cooperation or non cooperation		100.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		0.00
9 Unique factors		5.00
10 Sum of Specific Adjustments		0.00
11 Adjustment Matrix Value		5.00
Environmental		105.00
Sensitivity (ESM)		
Multiplier	1.0	\$105.00
Days of Noncompliance Multiplier	3	\$315.00
Initiation Adjustments (see other worksheets)		\$446.13
TOTAL Gravity Based Component		\$446.13
Economic Benefit (BEN) calculation		\$0.00
<b>TOTAL PENALTY</b>		<b>\$446.13</b>

**Comments/Basis:**  
**Days of Gravity** - Given the lack of documentation and compliance history at the site it has been decided to use the statute 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

**History of non-compliance** - This is the first time the facility has been inspected by EPA  
**Environmental 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-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

Gravity Based Component (GBC)				
Adjusted Matrix Value	X Enviro Sensitivity	X Days of NonCompliance	X 2009 Adjustment	GBP Penalty
\$105	1.00	3.00	1.4163	\$446.13

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW  
1.5 =Medium  
2.0 =HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

## UST Penalty Policy Calculation

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

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.31(b)	750.00
2 # of USTs	1	750.00
Start of Violation	12/22/2008	
End of Violation	4/1/2010	
3 Days of Gravity Matrix Value - Extent	465	3.00
4 of Deviation	Major Harm	Potential for Moderate
5 TOTAL Matrix Value	Moderate	750.00
6 Degree of cooperation or non cooperation		0.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		5%
9 Unique factors		0%
10 Sum of Specific Adjustments		37.50
11 Adjustment Matrix Value	Environmental	787.50

### Sensitivity (ESM)

Multiplier	1.0	\$787.50
Days of Noncompliance Multiplier	3	\$2,362.50
<i>(Inflation Adjustments (see other worksheet))</i>		
TOTAL Gravity Based Component		\$3,346.01
Economic Benefit (BEN) calculation		\$0.00
<b>TOTAL PENALTY</b>		<b>\$3,346.01</b>

**Comments/Basis**  
**Days of Gravity** - Given the lack of documentation and compliance history at the site it has been decided to use the statute 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

**History of non-compliance** - This is the first time the facility has been inspected by EPA  
**Environmental 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)** - One time capital cost of \$2,361.00 to repair or replace CP system and an Annually recurring cost of \$300 for inspection of the CP system. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010.

Gravity Based Component (GBC)				
Adjusted Matrix Value	x Enviro Sensitivity	x Days of NonCompliance	x 2009 Adjustment	GBPenalty
\$788	1.00	3.00	1.4163	\$3,346.01

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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease



1.0 =LOW  
1.5 =Medium  
2.0 =HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

## UST Penalty Policy Calculation

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)

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.44(a)	1500.00	<b>Days of Gravity</b> - 380 days of gravity starting at the date when the Nebraska Fire Marshall inspected the facility on 3/17/2009.
2 # of USTs	2	3000.00	
Start of Violation	12/22/2008		<b>Degree of cooperation or non cooperation</b> - Not enough information from the owner to justify adjustment
End of Violation	4/1/2010		
3 Days of Gravity	465	3.00	<b>History of non-compliance</b> - 5% penalty taking into account NE inspection from 3/17/2009.
Matrix Value - Extent			
4 of Deviation	Major		<b>Environmental Sensitivity</b> - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.
5 TOTAL Matrix Value	Major	3000.00	
6 Degree of cooperation or non cooperation	Major	0.00	<b>Economic Benefit calculation (BEN)</b> - an annual function test. Non-compliance period starts on March 17, 2009.
7 Degree of willfulness or negligence	Major	0.00	
8 History of noncompliance		0.00	
9 Unique factors		5%	
10 Sum of Specific Adjustments		0.00	
11 Adjustment Matrix Value		150.00	
Environmental		3150.00	

### Sensitivity (ESM)

Multiplier	1.0	\$3,150.00
Days of Noncompliance Multiplier	3	\$9,450.00
Initiation Adjustments (see other worksheet)		\$13,384.04
TOTAL Gravity Based Component		\$13,384.04
Economic Benefit (BEN) calculation		\$107.00
<b>TOTAL PENALTY</b>		<b>\$13,491.04</b>

### Gravity Based Component (GBC)

Adjusted Matrix Value	X Enviro Sensitivity	X Days of NonCompliance	X 2009 Adjustment	GBP Penalty
\$3,150	1.00	3.00	1.4163	\$13,384.04

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW  
1.5 =Medium  
2.0 =HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

# UST Penalty Policy Calculation

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)

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.41(b)(1)(ii)	1500.00
2 # of USTs	2	3000.00
Start of Violation	12/22/2008	
End of Violation	4/1/2010	
3 Days of Gravity Matrix Value - Extent	465	3.00
4 of Deviation	Major	Potential for Harm
5 TOTAL Matrix Value	Major	Major
6 Degree of cooperation or non cooperation		3000.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		0.00
9 Unique factors		150.00
10 Sum of Specific Adjustments		0.00
11 Adjustment Matrix Value		150.00
Environmental		3150.00

**Comments/Basis**  
**Days of Gravity** - 345 days of gravity starting at the date when the Nebraska Fire Marshall inspected the facility on 4/21/2009.  
**Degree of cooperation or non cooperation** - Not enough information from the owner to justify adjustment  
**History of non-compliance** - 5% penalty taking into account NE inspection from 4/21/2009.  
**Environmental 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 \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

Sensitivity (ESM)	1.0	\$3,150.00
Multiplier	1.0	\$9,450.00
Days of Noncompliance Multiplier	3	\$13,384.04
Inflation Adjustments (see other worksheet)		\$13,384.04
TOTAL Gravity Based Component		\$13,384.04
Economic Benefit (BEN) calculation		\$121.00
<b>TOTAL PENALTY</b>		<b>\$13,505.04</b>

Gravity Based Component (GBC)			
Adjusted Matrix Value	X Enviro Sensitivity	X Days of Non Compliance	X 2009 Adjustment
\$3,150	1.00	3.00	1.4163
			GB Penalty
			\$13,384.04

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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW  
1.5 = Medium  
2.0 = HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163



## UST Penalty Policy Calculation

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 280.45 - Failure to maintain records of release detection monitoring

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

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	X Days of NonCompliance	x 2009 Adjustment
\$1,575	1.00	3.00	1,4163
			\$6,692.02

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

### Comments/Basis

**Days of Gravity** - Given the lack of documentation and compliance history at the site it has been decided to use the statute 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

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

**Environmental 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 \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

1.0 = LOW  
1.5 = Medium  
2.0 = HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

## UST Penalty Policy Calculation

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

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.31 (c)	750.00
2 # of USTs	1	750.00
Start of Violation	12/22/2008	
End of Violation	4/1/2010	
3 Days of Gravity	465	3.00
Matrix Value - Extent		
4 of Deviation	Major	Potential for Harm
5 TOTAL Matrix Value	Major	Major
6 Degree of cooperation or non cooperation		750.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		0.00
9 Unique factors		37.50
10 Sum of Specific Adjustments		0.00
11 Adjustment Matrix Value		37.50
Environmental		787.50

Sensitivity (ESM)

Multiplier

Days of Noncompliance Multiplier

Inflation Adjustments (see other worksheet)

TOTAL Gravity Based Component

Economic Benefit (BEN) calculation

**TOTAL PENALTY**

1.0

3

1.4163

\$2,362.50

\$3,346.01

\$3,346.01

\$650.00

**\$3,996.01**

**Comments/Basis**  
**Days of Gravity** - Given the lack of documentation and compliance history at the site it has been decided to use the statute 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  
**History of non-compliance** - This is the first time the facility has been inspected by EPA  
**Environmental 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 \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	X Days of NonCompliance	x 2009 Adjustment
\$788	1.00	3.00	1.4163
			<b>\$3,346.01</b>

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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW  
1.5 =Medium  
2.0 =HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment  
1.1  
1.2895  
1.4163

# UST Penalty Policy Calculation

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

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.31(a)	1500.00
2 # of USTs	1	1500.00
Start of Violation	11/5/2009	
End of Violation	4/1/2010	
3 Days of Gravity	147	1.50
Matrix Value - Extent		
4 of Deviation	Major	Major
5 TOTAL Matrix Value	Major	1500.00
6 Degree of cooperation or non cooperation		0.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		0.00
9 Unique factors		0.00
10 Sum of Specific Adjustments		0.00
11 Adjustment Matrix Value		1500.00

**Environmental**

Sensitivity (ESM)	1.5	\$2,250.00
Multiplier	3	\$6,750.00
Days of Noncompliance Multiplier	3	\$9,560.03
Multiplier Adjustments (see other worksheet)		\$9,560.03
TOTAL Gravity Based Component		\$141.00
Economic Benefit (BEN) calculation		\$9,701.03
<b>TOTAL PENALTY</b>		<b>\$9,701.03</b>

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	X Days of NonCompliance	x 2009 Adjustment
\$1,500	1.00	1.50	1.4163
			\$3,186.68

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

**Comments/Basis**

**Days of Gravity** - Given the lack of documentation and compliance history at the site it has been decided to use the statute 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

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

**Environmental 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)** - One time capital cost of \$2,361.00 to repair or replace CP system and an Annually recurring cost of \$300 for inspection of the CP system. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010.

1.0 =LOW  
1.5 =Medium  
2.0 =HIGH



Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

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

Each Additional Year Multiplier	
Year 2	1
Year 3	1
Year 4	1
Year 5	1

From and including: Start date 12/22/2008 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>

Extent of Deviation from Requirement		Potential for Harm
Major	1500	Major
Moderate	750	
Minor	200	
Major	1000	Moderate
Moderate	500	
Minor	100	
Major	500	Minor
Moderate	250	
Minor	50	

EPA's Civil Penalty Policy Inflation Adjustments

UST Penalty Policy issued 1/14/1990

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 Inflation rate 1.1 + 17.23% increase
- 1.4163 Base Inflation rate + 17.23% + 9.83% increase

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

Violation #1  
§40 CFR 280.70(a) - Failure to continue operation maintenance of release detection in a temporarily closed tank system. When an UST operators must continue operation and maintenance of any release detection in accordance with subpart D.

Violation #2  
§40 CFR 280.45 - Failure to maintain records of release detection monitoring. UST system owners and operators must maintain record; 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  
§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**

# UST Penalty Policy Calculation

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(a) - Failure to continue operation maintenance of release detection in a temporarily closed tank system.

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.70(a)	1500.00
2 # of USTs	1	1500.00
Start of Violation	3/17/2009	
End of Violation	4/1/2010	
3 Days of Gravity Matrix Value - Extent	380	3.00
4 of Deviation	Major Harm	Potential for Major Harm
5 TOTAL Matrix Value	Major	1500.00
6 Degree of cooperation or non cooperation		0.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		5%
9 Unique factors		0%
10 Sum of Specific Adjustments		75.00
11 Adjustment Matrix Value		1575.00

Environmental

Sensitivity (ESM)

1.0

\$1,575.00

Multiplier

3

\$4,725.00

Days of Noncompliance Multiplier

3

\$6,692.02

Initial Gravity Based Component

1.4163

\$6,692.02

Economic Benefit (BEN) calculation

\$0.00

**TOTAL PENALTY**

**\$6,692.02**

**Comments/Basis**  
**Days of Gravity** - Given the lack of documentation and compliance history at the site it has been decided to use the statute 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

**History of non-compliance** - This is the first time the facility has been inspected by EPA  
**Environmental 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-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

Gravity Based Component (GBC)				
Adjusted Matrix Value	X Enviro Sensitivity	X Days of Non Compliance	X 2009 Adjustment	GBP enalty
\$1,575	1.00	3.00	1.4163	\$6,692.02

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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW  
1.5 = Medium  
2.0 = HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163



## UST Penalty Policy Calculation

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

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.45	1500.00	<p><b>Comments/Basis</b>  <b>Days of Gravity</b> - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation  <b>Degree of cooperation or non cooperation</b> - Not enough information from the owner to justify adjustment  <b>History of non-compliance</b> - This is the first time the facility has been inspected by EPA  <b>Environmental Sensitivity</b> - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.  <b>Economic Benefit calculation (BEN)</b> - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010</p>
2 # of USTs	1	1500.00	
Start of Violation	3/17/2009		
End of Violation	4/1/2010		
3 Days of Gravity	380	3.00	
Matrix Value - Extent			
4 of Deviation	Major		
5 TOTAL Matrix Value	Major	1500.00	
6 Degree of cooperation or non cooperation	Major	0.00	
7 Degree of willfulness or negligence	Major	0.00	
8 History of noncompliance	Major	0.00	
9 Unique factors		0.00	
10 Sum of Specific Adjustments		75.00	
11 Adjustment Matrix Value		1575.00	

Environmental			
Sensitivity (ESM)			
Multiplier	1.0		\$1,575.00
Days of Noncompliance Multiplier	3		\$4,725.00
Inflation Adjustments (see other worksheets)			\$6,692.02
TOTAL Gravity Based Component		1.4163	\$6,692.02
Economic Benefit (BEN) calculation			\$0.00
<b>TOTAL PENALTY</b>			<b>\$6,692.02</b>

Gravity Based Component (GBC)			
Adjusted Matrix Value	X Enviro Sensitivity	X Days of Non Compliance	X 2009 Adjustment
\$1,575	1.00	3.00	1.4163
			\$6,692.02

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW  
1.5 =Medium  
2.0 =HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment  
1.1  
1.2895  
1.4163

## UST Penalty Policy Calculation

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.

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.70(b)(2)	750.00	<p><b>Comments/Basis</b>  <b>Days of Gravity</b> - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation  <b>Degree of cooperation or non cooperation</b> - Not enough information from the owner to justify adjustment  <b>History of non-compliance</b> - This is the first time the facility has been inspected by EPA  <b>Environmental Sensitivity</b> - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.  <b>Economic Benefit calculation (BEN)</b> - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010</p>
2 # of USTs	1	750.00	
3 Start of Violation	11/4/2009		
4 End of Violation	4/1/2010		
5 Days of Gravity	148	1.50	
6 Matrix Value - Extent			
7 of Deviation	Major	Harm	
8 TOTAL Matrix Value	Moderate	Moderate	
9 Degree of cooperation or non cooperation		750.00	
10 Degree of willfulness or negligence		0.00	
11 History of noncompliance		0.00	
12 Unique factors		0.00	
13 Sum of Specific Adjustments		0.00	
14 Adjustment Matrix Value		750.00	

<b>Environmental</b>			
<b>Sensitivity (ESM)</b>			
Multiplier	1.0		\$750.00
Days of Noncompliance	1.5		\$1,125.00
<i>Inflation Adjustments (see other worksheet)</i>			
<b>TOTAL Gravity Based Component</b>		1.4163	\$1,593.34
<b>Economic Benefit (BEN) calculation</b>			\$0.00
<b>TOTAL PENALTY</b>			<b>\$1,593.34</b>

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	x Days of Non Compliance	x 2009 Adjustment
\$750	1.00	1.50	1.4163
			<b>\$1,593.34</b>

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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 =LOW  
1.5 =Medium  
2.0 =HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

## UST Penalty Policy Calculation

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.

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.41(a)	1500.00	<p><b>Comments/Basis</b>  <b>Days of Gravity</b> - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation  <b>Degree of cooperation or non cooperation</b> - Not enough information from the owner to justify adjustment  <b>History of non-compliance</b> - This is the first time the facility has been inspected by EPA  <b>Environmental Sensitivity</b> - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.  <b>Economic Benefit calculation (BEN)</b> - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010</p>
2 # of USTs	3	4500.00	
Start of Violation	3/17/2009		
End of Violation	4/1/2010		
3 Days of Gravity	380	3.00	
Matrix Value - Extent			
4 of Deviation	Major		
5 TOTAL Matrix Value	Major	4500.00	
6 Degree of cooperation or non cooperation	Major	0.00	
7 Degree of willfulness or negligence		0.00	
8 History of noncompliance		0.00	
9 Unique factors		0.00	
10 Sum of Specific Adjustments		225.00	
11 Adjustment Matrix Value		4725.00	
<b>Environmental</b>			
<b>Sensitivity (ESM)</b>			
Multiplier		1.0	\$4,725.00
Days of Noncompliance Multiplier		3	\$14,175.00
<i>Inflation Adjustments (see other worksheets)</i>			
TOTAL Gravity Based Component		1.4163	\$20,076.05
Economic Benefit (BEN) calculation			\$0.00
<b>TOTAL PENALTY</b>			<b>\$20,076.05</b>

Gravity Based Component (GBC)				
Adjusted Matrix Value	x Enviro Sensitivity	x Days of NonCompliance	x 2009 Adjustment	GBC Penalty
\$4,725	1.00	3.00	1.4163	\$20,076.05

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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW  
1.5 = Medium  
2.0 = HIGH



Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

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

Each Additional Year	Multiplier
Year 2	1
Year 3	1
Year 4	1
Year 5	1

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>

**Potential  
for Harm**

Extent of Deviation from Requirement	
Major	1500
Moderate	1000
Minor	500
Major	200
Moderate	100
Minor	50

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

**Violation #1**

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

**Violation #2**

\$40 CFR 280.45 - Failure to maintain records of release detection monitoring. UST system owners and operators must maintain record: 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**

\$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 EPA inspector observed that the facility's ATG was not operational.

**Violation #5**

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

**Violation #6**

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

**Penalties (see worksheets for specific information)**

**Violation #1**

**\$6,692.02**

**Violation #2**

**\$6,692.02**

**Violation #3**

**\$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 Handler:** 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.

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

Gravity Based Component (GBC)				
Adjusted Matrix Value	x Enviro Sensitivity	X Days of NonCompliance	x 2009 Adjustment	GBP Penalty
\$1,575	1.00	3.00	1.4163	\$6,692.02

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW  
1.5 = Medium  
2.0 = HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment  
1.1  
1.2895  
1.4163



## 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 280.45 - Failure to maintain records of release detection monitoring

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.45	1500.00	<p><b>Comments/Basis</b></p> <p><b>Days of Gravity</b> - Given the lack of documentation and compliance history at the site it has been decided to use the statute of limitation (5 years) for the days of gravity calculation</p> <p><b>Degree of cooperation or non cooperation</b> - Not enough information from the owner to justify adjustment</p> <p><b>History of non-compliance</b> - This is the first time the facility has been inspected by EPA</p> <p><b>Environmental Sensitivity</b> - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.</p> <p><b>Economic Benefit calculation (BEN)</b> - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010</p>
2 # of USTs	1	1500.00	
Start of Violation	3/17/2009		
End of Violation	4/1/2010		
3 Days of Gravity	380	3.00	
Matrix Value - Extent			
4 of Deviation	Major Harm	Major	
5 TOTAL Matrix Value		1500.00	
6 Degree of cooperation or non cooperation		0.00	
7 Degree of willfulness or negligence		0.00	
8 History of noncompliance		75.00	
9 Unique factors		0.00	
10 Sum of Specific Adjustments		75.00	
11 Adjustment Matrix Value		1575.00	
Environmental			
Sensitivity (ESM)			
Multiplier	1.0	\$1,575.00	
Days of Noncompliance Multiplier	3	\$4,725.00	
Inflation Adjustments (see other worksheet)		\$6,692.02	
TOTAL Gravity Based Component		\$6,692.02	
Economic Benefit (BEN) calculation		\$0.00	
<b>TOTAL PENALTY</b>		<b>\$6,692.02</b>	

Gravity Based Component (GBC)			
Adjusted Matrix Value	X Enviro Sensitivity	X Days of NonCompliance	X 2009 Adjustment
\$1,575	1.00	3.00	1,4163
			\$6,692.02

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

1.0 = LOW  
1.5 = Medium  
2.0 = HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment  
1.1  
1.2895  
1.4163

## 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.

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.70(b)(2)	750.00
2 # of USTs	1	750.00
Start of Violation	11/4/2009	
End of Violation	4/1/2010	
3 Days of Gravity	148	1.50
Matrix Value - Extent		
4 of Deviation	Major	Potential for Harm
5 TOTAL Matrix Value	Moderate	Moderate
6 Degree of cooperation or non cooperation		750.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		0.00
9 Unique factors		0.00
10 Sum of Specific Adjustments		0.00
11 Adjustment Matrix Value		750.00
Environmental		
Sensitivity (ESM)		
Multiplier	1.0	\$750.00
Days of Noncompliance Multiplier	1.5	\$1,125.00
<i>Inflation Adjustments (see other worksheets)</i>		
TOTAL Gravity Based Component	1.4163	\$1,593.34
<i>Economic Benefit (BEN) calculation</i>		
Economic Benefit (BEN) calculation		\$0.00
<b>TOTAL PENALTY</b>		<b>\$1,593.34</b>

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	X Days of NonCompliance	x 2009 Adjustment
\$750	1.00	1.50	1.4163
			\$1,593.34

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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

**Comments/Basis**

**Days of Gravity** - Given the lack of documentation and compliance history at the site it has been decided to use the statute 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

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

**Environmental 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 \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

1.0 =LOW  
1.5 =Medium  
2.0 =HIGH

Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment  
1.1  
1.2895  
1.4163

## 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 280.41(a) - Failure to monitor tanks at least every 30 days.**

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.41(a)	1500.00
2 # of USTs	2	3000.00
Start of Violation	3/17/2009	
End of Violation	4/1/2010	
3 Days of Gravity Matrix Value - Extent	380	3.00
4 of Deviation	Major	Potential for Harm
5 TOTAL Matrix Value	Major	Major
6 Degree of cooperation or non cooperation		3000.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		0.00
9 Unique factors		5%
10 Sum of Specific Adjustments		0%
11 Adjustment Matrix Value		150.00
Environmental		3150.00
Sensitivity (ESM)		
Multiplier	1.0	\$3,150.00
Days of Noncompliance Multiplier	3	\$9,450.00
Inflation Adjustments (see other worksheet)		\$13,384.04
TOTAL Gravity Based Component		\$13,384.04
Economic Benefit (BEN) calculation		\$0.00
<b>TOTAL PENALTY</b>		<b>\$13,384.04</b>

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	X Days of NonCompliance	x 2009 Adjustment
\$3,150	1.00	3.00	1.4163
			\$13,384.04

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

**Comments/Basis**  
**Days of Gravity** - Given the lack of documentation and compliance history at the site it has been decided to use the statute 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  
**History of non-compliance** - This is the first time the facility has been inspected by EPA  
**Environmental 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 \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010

1.0 = LOW  
1.5 = Medium  
2.0 = HIGH



Major  
Moderate  
Minor

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

5%  
10%  
15%  
20%  
25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

# 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 280.44(a) - Failure to provide adequate testing for piping system, no annual function test (FT)

Line Item	Citation	Matrix Value
1 UST Violation Penalty	280.44(a)	1500.00
2 # of USTs		3000.00
Start of Violation	3/17/2009	
End of Violation	4/1/2010	
3 Days of Gravity Matrix Value - Extent	380	3.00
4 of Deviation	Major	Potential for Harm
5 TOTAL Matrix Value	Major	Major
6 Degree of cooperation or non cooperation		3000.00
7 Degree of willfulness or negligence		0.00
8 History of noncompliance		0.00
9 Unique factors		5%
10 Sum of Specific Adjustments		150.00
11 Adjustment Matrix Value		150.00
Environmental		3150.00
Sensitivity (ESM)		
Multiplier	1.0	\$3,150.00
Days of Noncompliance Multiplier	3	\$9,450.00
Inflation Adjustments (see other worksheets)		\$13,384.04
TOTAL Gravity Based Component		\$13,384.04
Economic Benefit (BEN) calculation		\$0.00
<b>TOTAL PENALTY</b>		<b>\$13,384.04</b>

**Comments/Basis**  
**Days of Gravity** - 380 days of gravity starting at the date when the Nebraska Fire Marshall inspected the facility on 3/17/2009.  
**Degree of cooperation or non cooperation** - Not enough information from the owner to justify adjustment  
**History of non-compliance** - 5% penalty taking into account NE inspection from 3/17/2009.  
**Environmental 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)** - an annual function test. Non-compliance period starts on March 17,

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	X Days of NonCompliance	x 2009 Adjustment
\$3,150	1.00	3.00	1,4163
			\$13,384.04

Adjustment Factor	Violator Specific Adjustment to the Matrix Value
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	Up to 50% increase only
Other Unique Factors	Between 50% increase and 25% decrease

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50% Inflation adjustment  
1.1  
1.2895  
1.4163

## 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 280.41(b)(1)(ii) - Failure to perform monitoring of pressurized piping; no annual line tightness test (LTT)

Line Item	Citation	Matrix Value	Comments/Basis
1 UST Violation Penalty	280.41(b)(1)(ii)	1500.00	<b>Days of Gravity</b> - 345 days of gravity starting at the date when the Nebraska Fire Marshall inspected the facility on 4/21/2009.
2 # of USTs	2	3000.00	
Start of Violation	3/17/2009		<b>Degree of cooperation or non cooperation</b> - Not enough information from the owner to justify adjustment
End of Violation	4/1/2010		
3 Days of Gravity	380	3.00	<b>History of non-compliance</b> - 5% penalty taking into account NE inspection from 4/21/2009.
Matrix Value - Extent of Deviation			
4 of Deviation	Major	3000.00	<b>Environmental Sensitivity</b> - Low - There are no surface water bodies nearby, no drinking water wells and site geology consists mostly of clay like material.
5 TOTAL Matrix Value	Major	0.00	
6 Degree of cooperation or non cooperation		0.00	<b>Economic Benefit calculation (BEN)</b> - Annually recurring cost of \$75 for an annual line tightness test. Non-compliance period starts on December 28, 2007 (date when current owner acquired the property) and goes through April 1, 2010
7 Degree of willfulness or negligence		0.00	
8 History of noncompliance		150.00	
9 Unique factors		0.00	
10 Sum of Specific Adjustments		150.00	
11 Adjustment Matrix Value		3150.00	
<b>Environmental</b>			
Sensitivity (ESM)			
Multipier	1.0	\$3,150.00	
Days of Noncompliance Multipier	3	\$9,450.00	
<i>Inflation Adjustments: (see other worksheet)</i>			
TOTAL Gravity Based Component		\$13,384.04	
Economic Benefit (BEN) calculation		\$0.00	
<b>TOTAL PENALTY</b>		<b>\$13,384.04</b>	

Gravity Based Component (GBC)			
Adjusted Matrix Value	x Enviro Sensitivity	x Days of NonCompliance	x 2009 Adjustment
\$3,150	1.00	3.00	1.4163
			\$13,384.04

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	Up to 50% increase only
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15%  
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25%  
30%  
35%  
40%  
45%

50% Inflation adjustment

1.1  
1.2895  
1.4163

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

Each Additional Year Multiplier	
Year 2	1
Year 3	1
Year 4	1
Year 5	1

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&it=on>



Extent of Deviation from Requirement		Potential for Harm
Major	1500	Major
Moderate	1000	
Minor	500	
Major	500	Moderate
Moderate	250	
Minor	50	

EPA's Civil Penalty Policy Inflation Adjustments

UST Penalty Policy Issued 1/1/14/1990

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 Inflation rate 1.1 + 17.23% increase
- 1.4163 Base Inflation rate + 17.23% + 9.83% increase