

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-0635-PST-E TCEQ ID: RN102277076 CASE NO.: 37559**  
**RESPONDENT NAME: SL Horizon, LLC dba Town & Country Airport**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Town &amp; Country Airport, 12201 County Road 2500, Lubbock, Lubbock County</p> <p><b>TYPE OF OPERATION:</b> Local airport for small private aircraft that provides fuel, servicing, repair, and storage of small propeller and jet aircraft</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on October, 12, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> None  <b>TCEQ Enforcement Coordinator:</b> Ms. Judy Kluge, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5825; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Richard Eager, Managing Partner/Director, SL Horizon, LLC dba Town &amp; Country Airport, 12201 County Road 2500, Lubbock, Texas 79404  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 6, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> April 20, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WASTE</b></p> <p>1) Failure to provide an amended underground storage tank ("UST") registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate current ownership of the UST system, which occurred on April 1, 2007 [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>2) Failure to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, a change in ownership occurred on April 1, 2007 [30 TEX. ADMIN. CODE § 334.8(c)(4)(C) and (c)(5)(B)(ii)].</p> <p>3) Failure to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Facility received fifteen deliveries of fuel without a delivery certificate [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)].</p> <p>4) Failure to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties</p>	<p><b>Total Assessed:</b> \$20,502</p> <p><b>Total Deferred:</b> \$4,100  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid (Due) to General Revenue:</b> \$477 (remaining \$15,925 due in 35 monthly payments of \$455 each)</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on March 19, 2009;</p> <p>b. Obtained financial assurance coverage for all USTs at the Facility on March 25, 2009;</p> <p>c. Successfully conducted the required piping tightness and line leak detector tests and began reconciliation of inventory control records on March 10, 2009;</p> <p>d. Began conducting bimonthly inspections of the rectifier and other system components on March 10, 2009; and</p> <p>e. Successfully conducted the triennial testing of the cathodic protection system on April 24, 2009.</p>

<p>for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>5) Failure to provide release detection for the piping associated with the USTs. Specifically, the required annual piping tightness test had not been conducted [30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a)].</p> <p>6) Failure to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually [30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a)].</p> <p>7) Failure to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].</p> <p>8) Failure to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are functioning as designed. Specifically, bimonthly inspections of the cathodic protection system were not being conducted [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d)].</p> <p>9) Failure to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted after the ownership change on April 1, 2007 [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)].</p>		
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Additional ID No(s): PST No. 56859





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	27-Apr-2009	Screening	29-Apr-2009	EPA Due	
	PCW	29-Apr-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	SL Horizon, LLC dba Town & Country Airport
Reg. Ent. Ref. No.	RN102277076
Facility/Site Region	2-Lubbock
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37559	No. of Violations	5
Docket No.	2009-0635-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Judy Kluge
		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1

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

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

**Compliance History**  Subtotals 2, 3, & 7

Notes: Enhancement for two previous 1660 orders containing a denial of liability.

**Culpability**   Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Subtotal 6

Total EB Amounts	\$2,312
Approx. Cost of Compliance	\$2,745

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 3, 4, and 5.

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY**

**Screening Date** 29-Apr-2009

**Docket No.** 2009-0635-PST-E

**PCW**

**Respondent** SL Horizon, LLC dba Town & Country Airport

*Policy Revision 2 (September 2002)*

**Case ID No.** 37559

*PCW Revision October 30, 2009*

**Reg. Ent. Reference No.** RN102277076

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Judy Kluge

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action <i>(number of NOV's meeting criteria)</i>	0	0%
	Other written NOV's	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgments or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 40%

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

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for two previous 1660 orders containing a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 40%

<b>Screening Date</b> 29-Apr-2009	<b>Docket No.</b> 2009-0635-PST-E	<b>PCW</b>	
<b>Respondent</b> SL Horizon, LLC dba Town & Country Airport	Policy Revision 2 (September 2002)		
<b>Case ID No.</b> 37559	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b> RN102277076			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b> 1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code §§ 334.7(d)(3), 334.8(c)(4)(C) and (c)(5)(B)(ii)		
<b>Violation Description</b>	Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition. Specifically, the registration was not amended to indicate current ownership of the UST system which occurred on April 1, 2007. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
Harm			
Release	Major	Moderate	Minor
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Percent</b>		0%	
<b>&gt;&gt; Programmatic Matrix</b>			
Falsification			
Major	Moderate	Minor	
x	<input type="checkbox"/>	<input type="checkbox"/>	
<b>Percent</b>		10%	
<b>Matrix Notes</b>	100% of the rule requirement was not met.		
<b>Adjustment</b>		\$9,000	
<b>Violation Events</b>		\$1,000	
<b>Number of Violation Events</b>	1	13	<b>Number of violation days</b>
mark only one with an x	daily	<input type="checkbox"/>	<b>Violation Base Penalty</b>
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
single event	x	\$1,000	
One single event is recommended based on documentation of the violation during the March 6, 2009 investigation.			
<b>Good Faith Efforts to Comply</b>	25.0% Reduction	\$250	
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	x	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent came into compliance on March 19, 2009.		
<b>Violation Subtotal</b>		\$750	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	\$9	<b>Violation Final Penalty Total</b>	\$1,295
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,295	

## Economic Benefit Worksheet

**Respondent** SL Horizon, LLC dba Town & Country Airport  
**Case ID No.** 37559  
**Reg. Ent. Reference No.** RN102277076  
**Media** Petroleum Storage Tank  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	1-May-2007	19-Mar-2009	1.88	\$9	n/a	\$9
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount required to timely renew a previously issued delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is 30 days after ownership change date and the final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$100 TOTAL \$9

<b>Screening Date</b> 29-Apr-2009	<b>Docket No.</b> 2009-0635-PST-E	<b>PCW</b>	
<b>Respondent</b> SL Horizon, LLC dba Town & Country Airport	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37559	<small>PCW Revision October 30, 2008</small>		
<b>Reg. Ent. Reference No.</b> RN102277076			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b> <input type="text" value="2"/>			
<b>Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)"/>		
<b>Violation Description</b>	<input type="text" value="Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, the Facility received fifteen deliveries of fuel without a delivery certificate."/>		
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
<b>Harm</b>			
<b>Release</b>	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	x
<b>Percent</b>			<input type="text" value="5%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Percent</b>			<input type="text" value="0%"/>
<b>Matrix Notes</b>	<input type="text" value="Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation."/>		
<b>Adjustment</b>		<input type="text" value="\$9,500"/>	
		<input type="text" value="\$500"/>	
<b>Violation Events</b>			
<b>Number of Violation Events</b>	<input type="text" value="15"/>	<b>Number of violation days</b>	<input type="text" value="15"/>
<small>mark only one with an x</small>	daily <input type="text"/> weekly <input type="text"/> monthly <input type="text"/> quarterly <input type="text"/> semiannual <input type="text"/> annual <input type="text"/> single event <input checked="" type="text"/>	<b>Violation Base Penalty</b> <input type="text" value="\$7,500"/>	
<input type="text" value="Fifteen single events (one event per delivery) are recommended."/>			
<b>Good Faith Efforts to Comply</b>		<input type="text" value="25.0%"/> Reduction	<input type="text" value="\$1,875"/>
	<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>	
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	x	<input type="text"/>	
N/A	<input type="text"/>	<small>(mark with x)</small>	
<b>Notes</b>	<input type="text" value="The Respondent came into compliance on March 19, 2009."/>		
<b>Violation Subtotal</b>		<input type="text" value="\$5,625"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$9,716"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$9,716"/>	

## Economic Benefit Worksheet

**Respondent** SL Horizon, LLC dba Town & Country Airport  
**Case ID No.** 37559  
**Reg. Ent. Reference No.** RN102277076  
**Media** Petroleum Storage Tank  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit included in Violation No. 1.

**Avoided Costs**

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

<b>Screening Date</b> 29-Apr-2009	<b>Docket No.</b> 2009-0635-PST-E	<b>PCW</b>															
<b>Respondent</b> SL Horizon, LLC dba Town & Country Airport	Policy Revision 2 (September 2002)																
<b>Case ID No.</b> 37559	PCW Revision October 30, 2008																
<b>Reg. Ent. Reference No.</b> RN102277076																	
<b>Media [Statute]</b> Petroleum Storage Tank																	
<b>Enf. Coordinator</b> Judy Kluge																	
<b>Violation Number</b> 3																	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 37.815(a) and (b)																
<b>Violation Description</b>	Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.																
<b>Base Penalty</b>		\$10,000															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																	
<b>Harm</b>																	
<b>Release</b>	Major	Moderate	Minor														
<b>OR</b>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Actual</td> <td style="width:50px;"></td> <td style="width:50px;"></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="width:50px;"></td> <td style="width:50px;"></td> </tr> </table>		Actual			Potential			<b>Percent</b> 0%								
Actual																	
Potential																	
<b>&gt;&gt; Programmatic Matrix</b>																	
<b>Falsification</b>																	
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50px;"></td> <td style="width:50px; text-align: center;">Major</td> <td style="width:50px; text-align: center;">Moderate</td> <td style="width:50px; text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">x</td> <td style="width:50px;"></td> <td style="width:50px;"></td> <td style="width:50px;"></td> </tr> </table>				Major	Moderate	Minor	x				<b>Percent</b> 10%						
	Major	Moderate	Minor														
x																	
<b>Matrix Notes</b>	100% of the rule requirement was not met.																
<b>Adjustment</b>		\$9,000															
<b>Adjustment</b>		\$1,000															
<b>Violation Events</b>																	
<b>Number of Violation Events</b>	2	365	<b>Number of violation days</b>														
mark only one with an x	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="width:50px;"></td></tr> <tr><td style="text-align: center;">weekly</td><td style="width:50px;"></td></tr> <tr><td style="text-align: center;">monthly</td><td style="width:50px;"></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="width:50px;"></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="width:50px;"></td></tr> <tr><td style="text-align: center;">annual</td><td style="width:50px;"></td></tr> <tr><td style="text-align: center;">single event</td><td style="width:50px; text-align: center;">x</td></tr> </table>		daily		weekly		monthly		quarterly		semiannual		annual		single event	x	<b>Violation Base Penalty</b> \$2,000
daily																	
weekly																	
monthly																	
quarterly																	
semiannual																	
annual																	
single event	x																
Two single events are recommended for the two USTs at the Facility.																	
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	\$500														
		Before NOV    NOV to EDRP/Settlement Offer															
Extraordinary																	
Ordinary	x																
N/A		(mark with x)															
<b>Notes</b>	The Respondent came into compliance on March 25, 2009.																
<b>Violation Subtotal</b>		\$1,500															
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>															
<b>Estimated EB Amount</b>	\$1,365	<b>Violation Final Penalty Total</b>	\$2,591														
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$2,591															

## Economic Benefit Worksheet

**Respondent** SL Horizon, LLC dba Town & Country Airport  
**Case ID No.** 37559  
**Reg. Ent. Reference No.** RN102277076  
**Media** Petroleum Storage Tank  
**Violation No.** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]	\$1,300	6-Mar-2008	25-Mar-2009	1.00	\$65	\$1,300	\$1,365
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to provide financial assurance for two petroleum USTs (at \$850 per tank). The date required is twelve months preceding the date of the investigation and the final date is the compliance date.

Approx. Cost of Compliance

\$1,300

**TOTAL**

\$1,365

<b>Screening Date</b> 29-Apr-2009	<b>Docket No.</b> 2009-0635-PST-E	<b>PCW</b>															
<b>Respondent</b> SL Horizon, LLC dba Town & Country Airport	<small>Policy Revision 2 (September 2002)</small>																
<b>Case ID No.</b> 37559	<small>PCW Revision October 30, 2008</small>																
<b>Reg. Ent. Reference No.</b> RN102277076																	
<b>Media [Statute]</b> Petroleum Storage Tank																	
<b>Enf. Coordinator</b> Judy Kluge																	
<b>Violation Number</b> 4																	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.50(b)(2)(A), (b)(2)(A)(i)(III), and (d)(1)(B)(II) and Tex. Water Code § 26.3475(a) and (c)(1)																
<b>Violation Description</b>	Failed to provide release detection for the piping associated with the USTs. Specifically, the required annual piping tightness test had not been conducted. Failed to test the line leak detectors at least once per year for performance and operational reliability. Specifically, the line leak detectors had not been performance tested annually. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons.																
<b>Base Penalty</b>		\$10,000															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																	
<b>Harm</b>																	
	Major	Moderate	Minor														
OR	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">Actual</td> <td style="width: 50px;"></td> <td style="width: 50px;"></td> <td style="width: 50px;"></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>			Actual				Potential	x								
Actual																	
Potential	x																
		<b>Percent</b>	25%														
<b>&gt;&gt;Programmatic Matrix</b>																	
<b>Falsification</b>																	
	Major	Moderate	Minor														
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 50px;"></td> <td style="width: 50px;"></td> <td style="width: 50px;"></td> <td style="width: 50px;"></td> </tr> </table>																	
		<b>Percent</b>	0%														
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.																
<b>Adjustment</b>		\$7,500															
		\$2,500															
<b>Violation Events</b>																	
<b>Number of Violation Events</b>	1	<b>Number of violation days</b>	4														
<small>mark only one with an x</small>	<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="width: 50px;"></td></tr> <tr><td style="text-align: center;">weekly</td><td></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;">x</td></tr> <tr><td style="text-align: center;">quarterly</td><td></td></tr> <tr><td style="text-align: center;">semiannual</td><td></td></tr> <tr><td style="text-align: center;">annual</td><td></td></tr> <tr><td style="text-align: center;">single event</td><td></td></tr> </table>	daily		weekly		monthly	x	quarterly		semiannual		annual		single event		<b>Violation Base Penalty</b>	\$2,500
daily																	
weekly																	
monthly	x																
quarterly																	
semiannual																	
annual																	
single event																	
<div style="border: 1px solid black; padding: 5px; margin-top: 10px;">                 One monthly event is recommended based on documentation of the violation during the March 6, 2009 investigation to the March 10, 2009 compliance date.             </div>																	
<b>Good Faith Efforts to Comply</b>																	
<b>25.0% Reduction</b>		\$625															
	Before NOV	NOV to EDRP/Settlement Offer															
Extraordinary																	
Ordinary	x																
N/A	<small>(mark with x)</small>																
<b>Notes</b>	The Respondent came into compliance on March 10, 2009.																
<b>Violation Subtotal</b>		\$1,875															
<b>Economic Benefit (EB) for this violation</b>																	
<b>Estimated EB Amount</b>	\$493	<b>Statutory Limit Test</b>															
		<b>Violation Final Penalty Total</b>	\$3,239														
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	\$3,239														

## Economic Benefit Worksheet

**Respondent** SL Horizon, LLC dba Town & Country Airport  
**Case ID No.** 37559  
**Reg. Ent. Reference No.** RN102277076  
**Media** Petroleum Storage Tank  
**Violation No.** 4

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	6-Mar-2009	10-Mar-2009	0.01	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 The estimated cost for conducting monthly reconciliation of inventory control records. The date required is the investigation date and the final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)</b>							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$450	6-Mar-2008	10-Mar-2009	1.93	\$43	\$450	\$493
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**  
 Actual avoided cost for piping tightness and line leak detector tests. The date required is one year prior to the investigation date and the final date is the compliance date.

Approx. Cost of Compliance TOTAL

\$950	\$493
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<b>Screening Date</b> 29-Apr-2009	<b>Docket No.</b> 2009-0635-PST-E	<b>PCW</b>	
<b>Respondent</b> SL Horizon, LLC dba Town & Country Airport	<small>Policy Revision 2 (September 2002)</small>		
<b>Case ID No.</b> 37559	<small>PCW Revision October 30, 2009</small>		
<b>Reg. Ent. Reference No.</b> RN102277076			
<b>Media [Statute]</b> Petroleum Storage Tank			
<b>Enf. Coordinator</b> Judy Kluge			
<b>Violation Number</b> 5			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 334.49(c)(2)(C) and (c)(4) and Tex. Water Code § 26.3475(d)		
<b>Violation Description</b>	Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are functioning as designed. Specifically, bimonthly inspections of the cathodic protection system were not being conducted. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years. Specifically, the triennial test had not been conducted after the ownership change on April 1, 2007.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
Harm			
Release	Major	Moderate	Minor
Actual			
Potential	x		
<b>Percent</b>		25%	
<b>&gt;&gt; Programmatic Matrix</b>			
Falsification			
Major	Moderate	Minor	
<b>Percent</b>		0%	
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.		
<b>Adjustment</b>		\$7,500	
		\$2,500	
<b>Violation Events</b>			
<b>Number of Violation Events</b>		1	<b>Number of violation days</b>
		49	
<small>mark only one with an x</small>	daily		<b>Violation Base Penalty</b>
	weekly		
	monthly		
	quarterly	x	
	semiannual		
	annual		
	single event		
One quarterly event is recommended based on the documentation of the violation during the March 6, 2009 investigation to the April 24, 2009 compliance date.			\$2,500
<b>Good Faith Efforts to Comply</b>			
		<b>10.0% Reduction</b>	\$250
		<small>Before NOV    NOV to EOPRP/Settlement Offer</small>	
Extraordinary			<b>Violation Subtotal</b>
Ordinary		x	
N/A		<small>(mark with x)</small>	
<b>Notes</b>	The Respondent came into compliance on April 24, 2009.		
<b>Violation Subtotal</b>		\$2,250	
<b>Economic Benefit (EB) for this violation</b>			
<b>Estimated EB Amount</b>		\$444	
<b>Statutory Limit Test</b>			
<b>Violation Final Penalty Total</b>		\$3,661	
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$3,661	

## Economic Benefit Worksheet

**Respondent** SL Horizon, LLC dba Town & Country Airport  
**Case ID No.** 37559  
**Reg. Ent. Reference No.** RN102277076  
**Media** Petroleum Storage Tank  
**Violation No.** 5

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

**Avoided Costs**

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
Triennial Testing	\$295	1-Apr-2007	24-Apr-2009	2.98	\$44	\$295	\$339
Bimonthly Inspections	\$100	6-Jan-2009	10-Mar-2009	1.09	\$5	\$100	\$105

Notes for AVOIDED costs

Avoided cost for conducting bimonthly inspections and actual cost for completing the triennial testing. The dates required are 60 days before the investigation and the date of ownership change respectively and the final dates are the compliance dates.

Approx. Cost of Compliance

\$395

TOTAL

\$444

# Compliance History Report

Customer/Respondent/Owner-Operator: CN603454729 SL Horizon, LLC Classification: AVERAGE Rating: 30.00  
Regulated Entity: RN102277076 Town & Country Airport Classification: AVERAGE Site Rating: 30.00  
ID Number(s): Petroleum Storage Tank REGISTRATION 56859  
Location: 12201 County Road 2500, Lubbock, TX, 79404  
TCEQ Region: Region 02 - Lubbock  
Date Compliance History Prepared: April 29, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: April 29, 2004 to April 29, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Judy Kluge Phone: 817-588-5825

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? SL Horizon, LLC
4. If Yes, who was/were the prior owner(s)/operator(s)? Three Stars Aviation, L.L.C. dba Town & Country Airpark
5. When did the change(s) in owner or operator occur? 04/01/2007
6. Rating Date: 9/1/2008 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 07/15/2005 ADMINORDER 2004-1898-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)  
30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Effective Date: 11/06/2005 ADMINORDER 2005-1047-PST-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)  
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failure of owner or operator to insure that all tanks are monitored in a manner which will detect a release at a frequency of at least once every month.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

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

1 11/08/2004 (337786)  
2 05/17/2005 (379668)  
3 04/20/2009 (737758)

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

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SL HORIZON, LLC DBA TOWN &  
COUNTRY AIRPORT  
RN102277076

§  
§  
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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2009-0635-PST-E**

**I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding SL Horizon, LLC dba Town & Country Airport ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a local airport for small private aircraft that provides fuel, servicing, repair, and storage of small propeller and jet aircraft at 12201 County Road 2500 in Lubbock, Lubbock County, Texas (the "Facility").
2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about April 25, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Twenty Thousand Five Hundred Two Dollars (\$20,502) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Seventy-Seven Dollars (\$477) of the administrative penalty and Four Thousand One Hundred Dollars (\$4,100) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Fifteen Thousand Nine Hundred Twenty-Five Dollars (\$15,925) of the administrative penalty shall be payable in 35 monthly payments of Four Hundred Fifty-Five Dollars (\$455) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate on March 19, 2009;
  - b. Obtained financial assurance coverage for all USTs at the Facility on March 25, 2009;
  - c. Successfully conducted the required piping tightness and line leak detector tests and began reconciliation of inventory control records on March 10, 2009;
  - d. Began conducting bimonthly inspections of the rectifier and other system components on March 10, 2009; and
  - e. Successfully conducted the triennial testing of the cathodic protection system on April 24, 2009.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to provide an amended UST registration to the agency for any change or additional information regarding USTs within 30 days from the date of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on March 6, 2009. Specifically, the registration was not amended to indicate current ownership of the UST system, which occurred on April 1, 2007.
2. Failed to timely renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(C) and (c)(5)(B)(ii), as documented during an investigation conducted on March 6, 2009. Specifically, a change in ownership occurred on April 1, 2007.
3. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), as documented during an investigation conducted on March 6, 2009. Specifically, the Facility received fifteen deliveries of fuel without a delivery certificate.
4. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in violation of 30 TEX. ADMIN. CODE § 37.815(a) and (b), as documented during an investigation conducted on March 6, 2009.
5. Failed to provide release detection for the piping associated with the USTs, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on March 6, 2009. Specifically, the required annual piping tightness test had not been conducted.
6. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(2)(A)(i)(III) and TEX. WATER CODE § 26.3475(a), as documented during an investigation conducted on March 6, 2009. Specifically, the line leak detectors had not been performance tested annually.
7. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE §

- 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1), as documented during an investigation conducted on March 6, 2009.
8. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are functioning as designed, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on March 6, 2009. Specifically, bimonthly inspections of the cathodic protection system were not being conducted.
  9. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d), as documented during an investigation conducted on March 6, 2009. Specifically, the triennial test had not been conducted after the ownership change on April 1, 2007.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: SL Horizon, LLC dba Town & Country Airport, Docket No. 2009-0635-PST-E" to:  
  

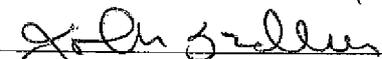
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

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

\_\_\_\_\_  
Date 10/3/2009

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

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

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

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

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date 10/24/2009

RICHARD EAGER  
Name (Printed or typed)  
Authorized Representative of  
SL Horizon, LLC dba Town & Country Airport

Managing Partner  
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

