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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0545-PST-E **TCEQ ID:** RN100679497 **CASE NO.:** 39465
RESPONDENT NAME: Travis E. Tindol, Jr.

ORDER TYPE:		
<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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Universal Fabricators, Inc., 305 West Houston Street, Beeville, Bee County</p> <p>TYPE OF OPERATION: Property with an inactive underground storage tank ("UST")</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 20, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Theresa Hagood, Enforcement Division, Enforcement Team 6, MC 128, (512)239-2540; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Travis E. Tindol, Jr., Property Owner, P.O. Box 4444, Beeville, Texas 78104 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 27, 2010</p> <p>Date of NOV/NOE Relating to this Case: March 26, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failed to notify the agency of any change or additional information regarding the UST within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the current ownership information [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>2) Failed to conduct a site assessment in response to the permanent removal from service of a UST system. Specifically, the Respondent removed the UST from the ground but did not conduct a site assessment to determine whether or not a release has occurred [30 TEX. ADMIN. CODE § 334.55(a)(6) and (e)].</p> <p>3) Failed to provide a written notification to the agency at least 30 days prior to the tank removal activity. Specifically, the Respondent removed the UST without submitting a construction notification [30 TEX. ADMIN. CODE § 334.6(b)(2)].</p>	<p>Total Assessed: \$7,208</p> <p>Total Deferred: \$1,441 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$167 (remaining \$5,600 due in 35 monthly payments of \$160 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has submitted a properly completed UST registration to reflect the current ownership information on January 28, 2010.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement a process for submitting construction notifications at least 30 days prior to initiating any major construction activities, including but not limited to tank removal activities;</p> <p>b. Within 60 days after the effective date of this Agreed Order, conduct a site assessment to determine whether or not any prior release of regulated substance had occurred from the system and take appropriate corrective measures; and</p> <p>c. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. and b.</p>

Additional ID No(s): PST No. 4380



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Mar-2010	Screening	28-Mar-2010	EPA Due	
	PCW	28-Mar-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	Travis E. Tindol, Jr.		
Reg. Ent. Ref. No.	RN100679497		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39465	No. of Violations	3
Docket No.	2010-0545-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Theresa Hagood
		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* **\$7,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 5.0% Enhancement *Subtotals 2, 3, & 7* **\$350**

Notes: Enhancement for one NOV with same or similar violation.

Culpability No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$250**

Economic Benefit 0.0% Enhancement *Subtotal 6* **\$0**

Total EB Amounts	\$304	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$5,200	

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$7,100**

OTHER FACTORS AS JUSTICE MAY REQUIRE 1.5% *Adjustment* **\$108**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 3.

Final Penalty Amount **\$7,208**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$7,208**

DEFERRAL 20.0% Reduction *Adjustment* **-\$1,441**

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 **\$5,767**

Screening Date 28-Mar-2010

Docket No. 2010-0545-PST-E

PCW

Respondent Travis E. Tindol, Jr.

Policy Revision 2 (September 2002)

Case ID No. 39465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100679497

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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) 5%

>> 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 one NOV with same or similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 28-Mar-2010

Docket No: 2010-0546-PST-E

PCW

Respondent Travis E. Tindol, Jr.

Policy Revision 2 (September 2002)

Case ID No. 39465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100679497

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.7(d)(3)

Violation Description

Failed to notify the agency of any change or additional information regarding the underground storage tank ("UST") within 30 days from the date of occurrence of the change or addition. Specifically, the registration was not updated to reflect the current ownership information.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

Number of violation days 1

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$1,000

One annual event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$250

	Before NOV	NOV to EDPRP/Settlement
	Extraordinary	
Ordinary	x	
N/A		(mark with x)

Notes The Respondent came into compliance on January 28, 2010.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$812

This violation Final Assessed Penalty (adjusted for limits) \$812

Economic Benefit Worksheet

Respondent: Travis E. Tindol, Jr.
Case ID No.: 39465
Reg. Ent. Reference No.: RN100679497
Media: Petroleum Storage Tank
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Description: No commas or \$
Item Cost: **Date Required:** **Final Date:** **Yrs:** **Interest Saved:** **Onetime Costs:** **EB Amount:**

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	27-Jan-2010	28-Jan-2010	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the investigation date. The Final Date is the compliance date.

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
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	\$0
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Screening Date 28-Mar-2010

Docket No. 2010-0546-PST-E

PCW

Respondent Travis E. Tindol, Jr.

Policy Revision 2 (September 2002)

Case ID No. 39465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100679497

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.55(a)(6) and (e)

Violation Description

Failed to conduct a site assessment in response to the permanent removal from service of a UST system. Specifically, the Respondent removed the UST from the ground but did not conduct a site assessment to determine whether or a not a release has occurred.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

Matrix Notes

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.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

60 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

Two monthly events are recommended based on documentation of the violation during the January 27, 2010 investigation date to the March 28, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary		
N/A	X	(mark with x)

Notes

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$195

Violation Final Penalty Total \$5,330

This violation Final Assessed Penalty (adjusted for limits) \$5,330

Economic Benefit Worksheet

Respondent: Travis E. Tindol, Jr.
Case ID No.: 39465
Reg. Ent. Reference No.: RN100679497
Media: Petroleum Storage Tank
Violation No.: 2

Percent Interest	Years of Depreciation:
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$5,000	27-Jan-2010	8-Nov-2010	0.78	\$195	n/a	\$195
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct a site assessment. The Date Required is the investigation date and the Final date is the estimated date of compliance.

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

\$5,000

TOTAL

\$195

Screening Date 28-Mar-2010

Docket No. 2010-0545-PST-E

PCW

Respondent Travis E. Tindol, Jr.

Policy Revision 2 (September 2002)

Case ID No. 39465

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100679497

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Theresa Hagood

Violation Number 3

Rule Cite(s)

30-Tex. Admin. Code § 334.6(b)(2)

Violation Description

Failed to provide a written notification to the agency at least 30 days prior to initiating the tank removal activity. Specifically, the Respondent removed the UST without submitting a construction notification.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	X			10%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 60

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$108

Violation Final Penalty Total \$1,066

This violation Final Assessed Penalty (adjusted for limits) \$1,066

Economic Benefit Worksheet

Respondent: Travis E. Tindol, Jr.
Case ID No.: 39465
Reg. Ent. Reference No.: RN100679497
Media: Petroleum Storage Tank
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

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

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [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]	\$100	2-May-2009	27-Jan-2010	1.66	\$8	\$100	\$108
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to notify the agency prior to removing the UST system. Date Required is 30 days prior to the date the UST system was removed from the ground. Final Date is the date of the investigation.

Approx. Cost of Compliance

\$100

TOTAL

\$108

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603500547 Travis E. Tindol, Jr.	Classification: AVERAGE	Rating: 3.00
Regulated Entity:	RN100679497 UNIVERSAL FABRICATORS	Classification: AVERAGE	Site Rating: 3.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		4380
Location:	305 W HOUSTON ST. BEEVILLE, TX, 78102		
TCEQ Region:	REGION 14 - CORPUS CHRISTI		
Date Compliance History Prepared:	April 26, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	April 26, 2005 to April 26, 2010		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Theresa Hagood Phone: 239 - 2540

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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? Travis E. Tindol Jr.
4. If Yes, who was/were the prior owner(s)/operator(s) ? Nelson Mamy
5. When did the change(s) in owner or operator occur? December 20, 2007
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

N/A
- 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	07/28/2009	(747275)
2	03/26/2010	(790019)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/28/2009	(747275)
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter A 334.7(d)(3)	
Description:	30 Texas Admin. Code § 334.7(d)(3) - Failure to provide to the agency an amended UST registration and self-certification form indicating a change in facility's ownership.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 334, SubChapter C 334.47(a)(2)	
Description:	30 TAC § 334.47(a)(2) - Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.	
- 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
TRAVIS E. TINDOL, JR.
RN100679497**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-0545-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 Travis E. Tindol, Jr. ("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 property with an inactive underground storage tank ("UST") at 305 West Houston Street in Beeville, Bee County, Texas (the "Facility").
2. The Facility's one UST is 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 March 31, 2010.
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 Seven Thousand Two Hundred Eight Dollars (\$7,208) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Sixty-Seven Dollars (\$167) of the administrative penalty and One Thousand Four Hundred Forty-One Dollars (\$1,441)

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 Five Thousand Six Hundred Dollars (\$5,600) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Sixty Dollars (\$160) 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 submitted a properly completed UST registration to reflect the current ownership information on January 28, 2010.
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 of the Facility, the Respondent is alleged to have:

1. Failed to notify the agency of any change or additional information regarding the UST within 30 days from the date of occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3), as documented during an investigation conducted on

January 27, 2010. Specifically, the registration was not updated to reflect the current ownership information.

2. Failed to conduct a site assessment in response to the permanent removal from service of a UST system, in violation of 30 TEX. ADMIN. CODE § 334.55(a)(6) and (e), as documented during an investigation conducted on January 27, 2010. Specifically, the Respondent removed the UST from the ground but did not conduct a site assessment to determine whether or not a release has occurred.
3. Failed to provide a written notification to the agency at least 30 days prior to the tank removal activity, in violation of 30 TEX. ADMIN. CODE § 334.6(b)(2), as documented during an investigation conducted on January 27, 2010. Specifically, the Respondent removed the UST without submitting a construction notification.

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: Travis E. Tindol, Jr., Docket No. 2010-0545-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement a process for submitting construction notifications at least 30 days prior to initiating any major construction activities, including but not limited to tank removal activities, in accordance with 30 TEX. ADMIN. CODE § 334.6;
 - b. Within 60 days after the effective date of this Agreed Order, conduct a site assessment to determine whether or not any prior release of regulated substance had occurred from the system and take appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.55(a) and (e); and

- c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Waste Section, Manager
Corpus Christi Regional Office
Texas Commission on Environmental Quality
6300 Ocean Drive, Suite 1200
Corpus Christi, Texas 78412-5503

3. 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.
4. 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.

5. 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.
6. 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.
7. 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.
8. 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.

Mr. Travis E. Tindol, Jr.
DOCKET NO. 2010-0545-PST-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Szallier
For the Executive Director

10/6/2010
Date

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.

Handwritten signature of Travis E. Tindol, Jr.

Signature

7/20/2010
Date

Travis E. Tindol, Jr.

Name (Printed or typed)
Authorized Representative of
Travis E. Tindol, Jr.

Owner
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.