

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO. 2009-1853-PST-E TCEQ ID RN104812458 CASE NO. 38681
RESPONDENT NAME: SURJIT SINGH WALIA

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" 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 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

SITE WHERE VIOLATIONS OCCURRED: 7918 Highway 6, Hitchcock, Galveston County

TYPE OF OPERATION: Property that previously contained three USTs

SMALL BUSINESS: Yes No N/A

OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that USTs were removed without notifying the TCEQ and by unregistered contractors. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired May 10, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Marshall Coover, Litigation Division, MC 175, (512) 239-3400
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. John Shelton, Waste Enforcement Section, MC 128, (512) 239-2563

TCEQ Regional Contact: Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623

Respondent: Mr. Surjit Walia, 309 Mimosa Drive, Hitchcock, Texas 77563

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: January 14, 2009</p> <p>Dates of Investigation Relating to this Case: January 26, 2009 and October 13, 2009</p> <p>Date of NOE Relating to this Case: December 4, 2009</p> <p>Background Facts: The EDPRP was filed on February 19, 2010, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on February 22, 2010. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent does not have a delivery certificate</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987 [30 TEX. ADMIN. CODE § 334.7(a)(1)]. Failed to conduct a site assessment in response to the permanent removal from service of a UST system [30 TEX. ADMIN. CODE § 334.55(a)(6) and (e)]. Failed to provide written notification to the agency at least 30 days prior to initiating construction activities [30 TEX. ADMIN. CODE § 334.6(b)(2)]. 	<p>Total Assessed: \$4,834</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$4,834</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</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>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days, conduct a site assessment and take appropriate corrective measures; Within 45 days, submit a UST registration form to indicate current ownership information and the current operational status of the UST system; and Within 60 days, submit written certification demonstrating compliance with Ordering Provision Nos. 1 and 2.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	26-Oct-2009	Screening	3-Nov-2009	EPA Due	
	PCW	11-Feb-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Surjit Singh Walia
Reg. Ent. Ref. No.	RN104812458
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38681	No. of Violations	3
Docket No.	2009-1853-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	John Shelton
		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	\$4,500
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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	\$225
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Notes: Enhancement for one NOV with same or similar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$306
Approx. Cost of Compliance	\$5,200

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,725
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OTHER FACTORS AS JUSTICE MAY REQUIRE	2.3%	Adjustment	\$109
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Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount	\$4,834
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,834
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$4,834
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Screening Date 3-Nov-2009

Docket No. 2009-1853-PST-E

PCW

Respondent Surjit Singh Walia

Policy Revision 2 (September 2002)

Case ID No. 38681

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104812458

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

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 (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements 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%

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)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

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

Screening Date 3-Nov-2009

Docket No. 2009-1853-PST-E

PCW

Respondent Surjit Singh Walia

Policy Revision 2 (September 2002)

Case ID No. 38681

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104812458

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.7(a)(1)

Violation Description Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		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 22

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 based on documentation of the violation during the October 13, 2009 investigation.

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 \$4

Violation Final Penalty Total \$1,074

This violation Final Assessed Penalty (adjusted for limits) \$1,074

Economic Benefit Worksheet

Respondent Surjit Singh Walia
Case ID No. 38681
Req. Ent. Reference No. RN104812458
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	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)	\$100	13-Oct-2009	7-Aug-2010	0.82	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to properly complete and submit UST registration form. The Date required is the investigation date. 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

\$100

TOTAL

\$4

Screening Date 3-Nov-2009

Docket No. 2009-1853-PST-E

PCW

Respondent Surjit Singh Walia

Policy Revision 2 (September 2002)

Case ID No. 38681

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104812458

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

Violation Number 2

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

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

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), Percent (25%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, 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 1 Number of violation days 22

Table for event frequency: daily, weekly, monthly (marked with x), quarterly, semiannual, annual, single event.

Violation Base Penalty \$2,500

One monthly event is recommended based on documentation of the violation during the October 13, 2009 investigation to the November 3, 2009 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked with x).

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$194

Violation Final Penalty Total \$2,686

This violation Final Assessed Penalty (adjusted for limits) \$2,686

Economic Benefit Worksheet

Respondent Surjit Singh Walia
Case ID No. 38681
Req. Ent. Reference No. RN104812458
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	13-Oct-2009	23-Jul-2010	0.78	\$194	n/a	\$194
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated minimum cost to properly conduct a Site assessment. The Date Required is the date of the investigation 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

\$194

Screening Date 3-Nov-2009

Docket No. 2009-1853-PST-E

PCW

Respondent Surjit Singh Walia

Policy Revision 2 (September 2002)

Case ID No. 38681

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104812458

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Shelton

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.6(b)(2)

Violation Description Failed to provide written notification to the agency at least 30 days prior to initiating construction activities. Specifically, the Respondent removed three USTs without submitting a construction notification.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and 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 22

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event (marked with x).

Violation Base Penalty \$1,000

One single event is recommended based on documentation of the violation during the October 13, 2009 investigation.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (marked 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 \$109

Violation Final Penalty Total \$1,074

This violation Final Assessed Penalty (adjusted for limits) \$1,074

Economic Benefit Worksheet

Respondent Surjit Singh Walia
Case ID No. 38681
Req. Ent. Reference No. RN104812458
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]				0.00	\$0	\$0	\$0
Other (as needed)	\$100	26-Dec-2008	13-Oct-2009	1.72	\$9	\$100	\$109

Notes for AVOIDED costs

Estimated cost to notify the agency prior to initiating the construction activities. Date Required is 30 days prior to the commencement of the removal of the USTs. Final Date is the date of the investigation.

Approx. Cost of Compliance

\$100

TOTAL

\$109

Compliance History Report

Customer/Respondent/Owner-Operator: CN603461492 WALIA, SURJIT SINGH Classification: AVERAGE Rating:9.00
 Regulated Entity: RN104812458 HITCHCOCK HIGHWAY 6 AUTO REPAIR Classification: AVERAGE Site Rating:9.00

ID Number(s): PETROLEUM STORAGE TANK NON REGISTERED ID NUMBER T002648

Location: 7918 HIGHWAY 6, HITCHCOCK, TX, 77563

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 10, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 10, 2004 to November 10, 2009

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

Name: John Shelton Phone: (512) 239-2563

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? Walia, Surjit Singh
4. If Yes, who was/were the prior owner(s)/operator(s) ? Gil, Rudy
5. When did the change(s) in owner or operator occur? 9/8/2008
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.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 Date: 03/09/2006 (451205)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 334, SubChapter A 334.7(a)(1)
 Description: ISSUED SECOND NOTICE OF VIOLATION.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)
 Description: The facility has underground storage tanks that have not been in use for more than 60 days. ISSUED SECOND NOTICE OF VIOLATION.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)(2)
 Description: The facility was not secure from vandalism, or access to the tanks. ISSUED SECOND NOTICE OF VIOLATION.
- 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
SURJIT SINGH WALIA;
RN104812458**

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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER
DOCKET NO. 2009-1853-PST-E**

At its _____ agenda, the Texas Commission on Environmental Quality, (“Commission” or “TCEQ”) considered the Executive Director’s Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty, corrective action of the respondent, and revocation of the respondent’s fuel delivery certificate. The respondent made the subject of this Order is Surjit Singh Walia (“Mr. Walia”).

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Mr. Walia owns property that previously contained three underground storage tanks (“USTs”) located at 7918 Highway 6, Hitchcock, Galveston County, Texas (the “Facility”).
2. Mr. Walia’s three USTs were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Walia’s USTs contained a regulated substance as defined in the rules of the Commission.
3. During investigations conducted on January 26, 2009, and October 13, 2009, a TCEQ Houston Regional Office investigator documented that Mr. Walia:
 - a. Failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987;
 - b. Failed to conduct a site assessment in response to the permanent removal from service of a UST system. Specifically, Mr. Walia permanently removed the USTs from the ground but did not conduct a site assessment to determine whether or not a release has occurred; and

- c. Failed to provide written notification to the agency at least 30 days prior to initiating construction activities. Specifically, Mr. Walia removed three USTs without submitting a construction notification.
4. Mr. Walia received notice of the violations on or about December 9, 2009.
5. The Executive Director filed the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Surjit Singh Walia” (the “EDPRP”) in the TCEQ Chief Clerk’s office on February 19, 2010.
6. By letter dated February 19, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Walia with notice of the EDPRP. According to the return receipt “green card,” Mr. Walia received notice of the EDPRP on February 22, 2010, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Mr. Walia received notice of the EDPRP, provided by the Executive Director. Mr. Walia failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Findings of Fact Nos. 1 and 2, Mr. Walia is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Walia failed to register with the Commission, on authorized agency forms, USTs in existence on or after September 1, 1987, in violation of 30 TEX. ADMIN. CODE § 334.7(a)(1).
3. As evidenced by Finding of Fact No. 3.b., Mr. Walia 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 334.55(e).
4. As evidenced by Finding of Fact No. 3.c., Mr. Walia failed to provide written notification to the agency at least 30 days prior to initiating construction activities, in violation of 30 TEX. ADMIN. CODE § 334.6(b)(2).
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Mr. Walia with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).

6. As evidenced by Finding of Fact No. 7, Mr. Walia failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Walia and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Walia for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of four thousand eight hundred thirty-four dollars (\$4,834.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Mr. Walia's UST fuel delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of Mr. Walia's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 3 and 5 through 7, and Conclusions of Law Nos. 2 through 6.

ORDERING PROVISIONS

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

1. Mr. Walia is assessed an administrative penalty in the amount of four thousand eight hundred thirty-four dollars (\$4,834.00) for violations of state statutes and the rules of the TCEQ. The payment of this administrative penalty and Mr. Walia's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Surjit Singh Walia; Docket No. 2009-1853-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. Mr. Walia shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Order, Mr. Walia shall conduct a site assessment at the Facility and take appropriate corrective measures, in accordance with 30 TEX. ADMIN. CODE § 334.55(a) and (e).
 - b. Within 45 days after the effective date of this Order, Mr. Walia shall submit a completed UST registration form, which shall include current ownership information and shall update the current operational status of the UST system as "removed from the ground," in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- c. Within 60 days after the effective date of this Order, Mr. Walia shall submit written certification and detailed supporting documentation, including photographs, receipts, and 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 fine and imprisonment for knowing violations."

Mr. Walia shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. 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
Texas Commission on Environmental Quality
Houston Regional Office
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Walia. Mr. Walia is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Mr. Walia fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Walia's failure to comply is not a violation of this Order. Mr. Walia shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Walia shall notify the Executive Director within seven days after Mr. Walia becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Walia shall be made in writing to the Executive Director. Extensions are not effective until Mr. Walia receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Walia if the Executive Director determines that Mr. Walia has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

Surjit Singh Walia
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

