

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO. 2010-0611-PST-E RN102901535 CASE NO. 39524

**RESPONDENT NAME: LONDONDERRY ENTERPRISES, INC. D/B/A NEW
LONDONDERRY FOOD MART**

ORDER TYPE:		
<input type="checkbox"/> AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input checked="" 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 VIOLATION(S) OCCURRED: 24900 Kuykendahl Road, Tomball, Harris County

TYPE OF OPERATION: convenience store with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints related to this enforcement action. There is no record of additional pending enforcement action regarding this facility location.

INTERESTED PARTIES: No one other than the ED and Respondent expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired December 20, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Tammy L. Mitchell, Litigation Division, MC 175, (512) 239-3400
Lena Roberts, Litigation Division, MC 175, (512) 239-3400

TCEQ Enforcement Coordinator: Mr. Keith Frank, Waste Enforcement Section, MC 128, (512) 239-1203

TCEQ Regional Contact: Mr. Todd Thompson, Houston Regional Office, MC R-15, (713) 422-8941

Respondent: Jesusita Alvarado, Director, Londonderry Enterprises, Inc., 2111 North Park Ave., Pearland, Texas 77581

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

**RESPONDENT NAME: LONDONDERRY ENTERPRISES, INC.
D/B/A NEW LONDONDERRY FOOD
DOCKET NO. 2010-0611-PST-E**

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 of Complaint: none</p> <p>Date of Investigation: February 17, 2010</p> <p>Date of NOV: April 9, 2010</p> <p>Background Facts: The EDPRP was filed on August 18, 2010, and mailed to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>A Notice of Intent ("NOI") to shut down the USTs was mailed to Respondent on September 21, 2010. The NOI sent by certified mail was returned "unclaimed." The first class mail has not been returned. As of the date of the entry of this order, Respondent has not provided the ED with documentation demonstrating that the release detection and automatic shut-off valve violations have been corrected.</p> <p>Current Compliance Status: Respondent - has not yet submitted documentation to certify compliance with the technical requirements. Respondent's delivery certificate expires July 2011.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date [30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)]. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a)]. 	<p>Total Assessed: \$24,659</p> <p>Total Deferred: \$0</p> <ul style="list-style-type: none"> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <p>Total Due to General Revenue: \$24,659</p> <p>This is a Default Order. 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>Compliance History Classifications: Person/CN - Average Site/RN - Average</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: The ED recognizes that Respondent implemented the following corrective measures at the Station:</p> <ol style="list-style-type: none"> Obtained acceptable financial assurance on March 4, 2010 (Violation 5); Began maintaining all required UST records on March 18, 2010 (Violation 6); Submitted documentation to the Houston Regional Office demonstrating the UST fill tubes had been permanently marked on April 30, 2010 (Violation 7); Submitted documentation to the Houston Regional Office demonstrating that the emergency shutoff valves had been properly secured on April 30, 2010 (Violation 8);and Completed testing of the Stage II vapor recovery system on April 14, 2010, with passing results (Violation 12). <p>Ordering Provisions: Respondent shall take the following steps to shut down operations of all USTs at the Station:</p> <ol style="list-style-type: none"> Immediately: <ol style="list-style-type: none"> Cease dispensing fuel from the USTs; Cease receiving deliveries of regulated substances into the USTs; Padlock the dispensers; Empty the USTs of all regulated substances; and Temporarily remove the USTs from service. Respondent's USTs shall remain out of service until such time as Respondent demonstrates to the satisfaction of the Executive Director that violation nos. 4 and 10 have been corrected. If Respondent elects, to permanently remove from service any portion of the UST system, Respondent shall immediately permanently remove the UST system from service, and within 15 days submit a written report documenting compliance.

**RESPONDENT NAME: LONDONDERRY ENTERPRISES, INC.
D/B/A NEW LONDONDERRY FOOD
DOCKET NO. 2010-0611-PST-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>3. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].</p> <p>4. Failed to monitor the UST releases at a frequency of at least once per month (not to exceed 35 days between each monitoring); failed to test the test the line leak detectors at least once per year for performance and operational reliability; failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons; and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day [30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(a) and (c)(1)].</p> <p>5. Failed to demonstrate acceptable financial assurance for taking corrective action for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST [30 TEX. ADMIN. CODE § 37.815(a) and (b)].</p> <p>6. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].</p> <p>7. Failed to ensure that a legible tag, label, or marking with the tank number, according to the UST registration and self-certification form, is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)].</p> <p>8. Failed to install an emergency shutoff valve (also known as a shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].</p>		<p>4. Respondent's UST fuel delivery certificate is revoked immediately. Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in the Order.</p> <p>5. Within 10 days, Respondent shall send its UST fuel delivery certificate to the TCEQ.</p> <p>6. Within 15 days, submit documentation certifying compliance with Ordering Provision Nos. 1 and 5;</p> <p>7. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline:</p> <p>a. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form (Violations 1 and 2);</p> <p>b. Begin conducting proper inventory control procedures for all USTs at the Station (Violation 3);</p> <p>c. Begin maintaining all Stage II records at the Station (Violation 13);</p> <p>d. Implement a release detection method for the UST system and piping at the Station and begin conducting volume measurement and reconciliation of inventory control records (Violation 4);</p> <p>e. Conduct the required annual testing of the line leak detectors for performance and operational reliability (Violation 4);</p> <p>f. Implement procedures to assure sumps, manways, overspill containers or containment basins are inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, including the removal of all liquids and debris from the spill buckets (Violation 9);</p> <p>g. Install an overfill prevention device for the UST system (violation 10);</p>

**RESPONDENT NAME: LONDONDERRY ENTERPRISES, INC.
D/B/A NEW LONDONDERRY FOOD
DOCKET NO. 2010-0611-PST-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>9. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, and failed to remove and properly dispose of any liquid found during an inspection within 72 hours [30 TEX. ADMIN. CODE § 334.42(i)].</p> <p>10. Failed to equip the tank with a valve or other appropriate device designed to automatically shut off the flow of regulated substances into the tank when the liquid reaches a preset level no higher than 95% capacity level for the tank [30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2)].</p> <p>11. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and failed to ensure that each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>12. Failed to verify proper operation of Stage II equipment at least once every 12 months [30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>13. Failed to maintain Stage II records at the Station [30 TEX. ADMIN. CODE § 115.246(6) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>h. Ensure at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system and each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system (Violation 11); and</p> <p>i. Obtain a new fuel delivery certificate from the TCEQ.</p> <p>8. Post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.</p> <p>9. Within 10 days, submit documentation certifying compliance with Ordering Provision Nos. 7 and 8.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	12-Apr-2010	Screening	16-Apr-2010	EPA Due	
	PCW	17-Jul-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart
Reg. Ent. Ref. No.	RN102901535
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39524	No. of Violations	13
Docket No.	2010-0611-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
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 Enhancement Subtotals 2, 3, & 7:

Notes:

Culpability Enhancement Subtotal 4:

Notes:

Good Faith Effort to Comply Total Adjustments Subtotal 5:

Economic Benefit Enhancement* Subtotal 6:

Total EB Amounts	\$3,850
Approx. Cost of Compliance	\$8,300

*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:

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:

PAYABLE PENALTY

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New

Respondent Londonderry Food Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

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%
<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) 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 previous Notice of Violation with same or similar violations.

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

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry

Respondent Food Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §.334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)

Violation Description Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed underground storage tank ("UST") registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2009.

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 1 216 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement
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 \$7

Violation Final Penalty Total \$1,233

This violation Final Assessed Penalty (adjusted for limits) \$1,233

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

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
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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	31-Jul-2009	7-Jan-2011	1.44	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. Date Required is 30 days before the delivery certificate expired. 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

\$7

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)

Violation Description

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, five fuel deliveries were accepted without a delivery certificate.

Base Penalty \$10,000

>> Environmental Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			X

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

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.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 5

5 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,500

Five single events are recommended for accepting five deliveries of fuel.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/ 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,082

This violation Final Assessed Penalty (adjusted for limits) \$3,082

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

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
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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

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

Screening Date 16-Apr-2010

Docket No: 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No: RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)

Violation Description Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

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 58 Number of violation days

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

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the February 17, 2010 investigation to the April 16, 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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$3,082

This violation Final Assessed Penalty (adjusted for limits) \$3,082

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

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
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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	\$500	17-Feb-2010	7-Jan-2011	0.89	\$22	n/a	\$22
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

Estimated cost to provide proper inventory control procedures. Date Required is the investigation date. Final Date is the estimated date of compliance.

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

\$500

TOTAL

\$22

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A), (b)(2)(A)(i)(III), (d)(1)(B)(ii), and (d)(1)(B)(iii)(I) and Tex. Water Code § 26.3475(a) and (c)(1)

Violation Description

Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring). Failed to test the line leak detectors at least once per year for performance and operational reliability. Failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons. Also, failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	X		

Percent 25%

>> Programmatic Matrix

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 58

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the February 17, 2010 investigation to the April 16, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,157

Violation Final Penalty Total \$3,082

This violation Final Assessed Penalty (adjusted for limits) \$3,082

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)	\$1,500	17-Feb-2010	7-Jan-2011	0.89	\$67	\$0	\$67

Notes for DELAYED costs

Estimated cost to provide release detection for the USTs including recording daily volume measurement and monthly reconciliation of inventory control records. Date Required is the investigation date. 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]	\$1,000	27-Mar-2009	17-Feb-2010	1.81	\$91	\$1,000	\$1,091
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for conducting annual line leak detector tests. Date Required is the date of ownership. Final Date is the investigation date.

Approx. Cost of Compliance

\$2,500

TOTAL

\$1,157

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code §.37.815(a) and (b)

Violation Description

Failed to demonstrate acceptable financial assurance for taking corrective action for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	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 2

343 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$2,000

Two single events are recommended for the two USTs at the Station.

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

No good faith reduction is offered when a Default Order is recommended.

Violation Subtotal \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,365

Violation Final Penalty Total \$2,466

This violation Final Assessed Penalty (adjusted for limits) \$2,466

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

Media Petroleum Storage Tank

Violation No. 5

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]	\$1,300	27-Mar-2009	4-Mar-2010	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 USTs (\$650 per tank). Date Required is the date of ownership. Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,300

TOTAL

\$1,365

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 334.10(b)

Violation Description

Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.

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 58

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 EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

No good faith reduction is offered when a Default Order is recommended.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$1,233

This violation Final Assessed Penalty (adjusted for limits) \$1,233

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

Media Petroleum Storage Tank

Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description : No commas or \$

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	\$0	\$0
Record Keeping System	\$500	17-Feb-2010	18-Mar-2010	0.08	\$2	\$0	\$2
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost to maintain UST records. Date Required is the investigation date. Final Date is the date of compliance.

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

\$500

TOTAL

\$2

Screening Date 16-Apr-2010

Docket No: 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 334.8(c)(5)(C)

Violation Description

Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

1

72 Number of violation days

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 EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

No good faith reduction is offered when a Default Order is recommended.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,233

This violation Final Assessed Penalty (adjusted for limits) \$1,233

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart
Case ID No. 39524
Reg. Ent. Reference No. RN102901535
Media Petroleum Storage Tank
Violation No. 7

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$100	17-Feb-2010	30-Apr-2010	0.20	\$0	\$1	\$1
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

Estimated cost to label tank fill pipes. Date Required is the investigation date. Final Date is the 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

\$1

Screening Date 16-Apr-2010 **Docket No.** 2010-0611-PST-E **PCW**
Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food
Case ID No. 39524 *Policy Revision 2 (September 2002)*
Reg. Ent. Reference No. RN102901535 *PCW Revision October 30, 2008*
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Keith Frank
Violation Number 8
Rule Cite(s) 30 Tex. Admin. Code § 334.45(c)(3)(A)
Violation Description Failed to install an emergency shutoff valve (also known as a shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves were not securely anchored as required under dispenser nos. 5, 6, 7 and 8.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%
Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.
Adjustment \$9,000

Violation Events
 Number of violation days

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

Violation Base Penalty \$1,000
 One quarterly event is recommended based on documentation of the violation during the February 17, 2010 investigation to the April 16, 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 No good faith reduction is offered when a Default Order is recommended.
Violation Subtotal \$1,000

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$7 **Violation Final Penalty Total** \$1,233
This violation Final Assessed Penalty (adjusted for limits) \$1,233

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart
Case ID No. 39524
Reg. Ent. Reference No. RN102901535
Media Petroleum Storage Tank
Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$500	17-Feb-2010	30-Apr-2010	0.20	\$0	\$7	\$7
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

Estimated cost to properly install anchors at the Station. Date Required is the investigation date. Final Date is the 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

\$500

TOTAL

\$7

Screening Date 16-Apr-2010

Docket No.: 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 9

Rule Cite(s)

30 Tex. Admin. Code § 334.42(i)

Violation Description

Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and failure to remove and properly dispose of any liquid found during an inspection within 72 hours. Specifically, the Station was not maintaining a spill bucket inspection log and there was liquid found in the spill buckets.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

58 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the February 17, 2010 investigation to the April 16, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$114

Violation Final Penalty Total \$1,233

This violation Final Assessed Penalty (adjusted for limits) \$1,233

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

Media Petroleum Storage Tank

Violation No. 9

Percent Interest	Years of Depreciation
5.0	15

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

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	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal	\$200	17-Feb-2010	7-Jan-2011	0.89	\$9	\$0	\$9
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost for removing liquid from the spill buckets and properly disposing of it. Date Required is the investigation date. Final Date is the estimated date of compliance.

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]	\$100	19-Dec-2009	17-Feb-2010	1.08	\$5	\$100	\$105
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of conducting bimonthly inspections of the sumps, manways, overspill containers or catchment basins. Date Required is 60 days prior to the investigation. Final Date is the investigation date.

Approx. Cost of Compliance

\$300

TOTAL

\$114

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 10

Rule Cite(s)

30 Tex. Admin. Code § 334.51(b)(2)(C) and Tex. Water Code § 26.3475(c)(2)

Violation Description

Failed to equip the tank with a valve or other appropriate device designed to automatically shut off the flow of regulated substances into the tank when the liquid reaches a preset level no higher than 95% capacity level for the tank. Specifically, overfill prevention equipment was not installed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

58 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the February 17, 2010 investigation to the April 16, 2010 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/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 \$31

Violation Final Penalty Total \$1,233

This violation Final Assessed Penalty (adjusted for limits) \$1,233

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

Media Petroleum Storage Tank

Violation No. 10

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	\$500	17-Feb-2010	7-Jan-2011	0.89	\$1	\$30	\$31
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

Estimated cost to properly install overfill prevention devices. Date Required is the investigation date. 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

\$500

TOTAL

\$31

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 11

Rule Cite(s) 30 Tex. Admin. Code § 115.248(1) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		-X	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 58 Number of violation days

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

Violation Base Penalty \$1,000

One quarterly event is recommended based on documentation of the violation during the February 17, 2010 investigation to the April 16, 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 \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$22

Violation Final Penalty Total \$1,233

This violation Final Assessed Penalty (adjusted for limits) \$1,233

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

Media Petroleum Storage Tank

Violation No. 11

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	\$500	17-Feb-2010	7-Jan-2011	0.89	\$22	n/a	\$22
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

Estimated cost of training a Stage II Station representative and conducting in-house employee Stage II training. Date Required is the investigation date. 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

\$500

TOTAL

\$22

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

V12 12
Rule Cite(s) 30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual compliance testing had not been conducted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential	X			

>> Programmatic Matrix

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 1 328 Number of violation days

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

Violation Base Penalty \$2,500

One annual event is recommended for the period preceding the February 17, 2010 investigation.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

No good faith reduction is offered when a Default Order is recommended.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,098

Violation Final Penalty Total \$3,082

This violation Final Assessed Penalty (adjusted for limits) \$3,082

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Reg. Ent. Reference No. RN102901535

Media: Petroleum Storage Tank

Violation No. 12

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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]	\$1,000	27-Mar-2009	14-Apr-2010	1.97	\$98	\$1,000	\$1,098
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost for annual testing of the Stage II equipment. Date Required is the date of ownership.
Final Date is the date of compliance.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,098

Screening Date 16-Apr-2010

Docket No. 2010-0611-PST-E

PCW

LONDONDERRY ENTERPRISES INC dba New Londonderry Food

Respondent Mart

Policy Revision 2 (September 2002)

Case ID No. 39524

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102901535

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Keith Frank

Violation Number 13

Rule Cite(s)

30 Tex. Admin. Code § 115.246(6) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain Stage II records at the Station. Specifically, the daily inspection records were not made immediately available for review at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	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

58 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an 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 \$22

Violation Final Penalty Total \$1,233

This violation Final Assessed Penalty (adjusted for limits) \$1,233

Economic Benefit Worksheet

Respondent LONDONDERRY ENTERPRISES INC dba New Londonderry Food Mart

Case ID No. 39524

Req. Ent. Reference No. RN102901535

Media Petroleum Storage Tank

Violation No. 13

Percent Interest	Years of Depreciation
5.0	15

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

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	\$500	17-Feb-2010	7-Jan-2011	0.89	\$22	n/a	\$22
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

Estimated cost to maintain Stage II records at the Station. Date Required is the investigation date. 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

\$500

TOTAL

\$22

Compliance History Report

Customer/Respondent/Owner-Operator: CN603563974 LONDONDERRY ENTERPRISES INC Classification: AVERAGE Rating: 10.50
Regulated Entity: RN102901535 New Londonderry Food Mart Classification: AVERAGE Site Rating: 10.50
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 74980
REGISTRATION
Location: 24900 KUYKENDAHL RD, TOMBALL, TX, 77375
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: April 13, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 13, 2005 to April 13, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Keith Frank Phone: (512) 239-1203

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? LONDONDERRY ENTERPRISES INC
4. If Yes, who was/were the prior owner(s)/operator(s) ?
SADAAT OIL INC
Paarus Investments, Inc.
5. When did the change(s) in owner or operator occur?
03/27/2008 Paarus Investments, Inc.
03/27/2009 SADAAT OIL INC
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 02/24/2006 (440267)
2 04/09/2010 (794919)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/20/2007 (601212) CN603563974
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.51(b)(2)(C)
Description: Failure to equip the UST system with overfill prevention equipment.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
Description: Failure to put the ATG into test mode at least once per month, not to exceed 35 days.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)
Description: Failure to reconcile inventory control records monthly in a manner sufficiently

accurate to detect a release which equals or exceeds the sum of 1% of flow-through plus 130 gallons.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)
Description: Failure to maintain legible copies of all required records pertaining to the UST system in a secure location on the premises of the facility.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(6)
Description: Failure to record daily inspections.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.248(1)
Description: Failure to have a trained Stage II Facility Representative.
Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)
Description: Failure to maintain a Stage II Employee Training Documentation Log.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
Description: Failure to successfully complete the annual Stage II test.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(1)(C)
Description: Failure to install an ORVR compatible system.

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
LONDONDERRY ENTERPRISES,
INC. D/B/A NEW LONDONDERRY
FOOD MART;
RN102901535**

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**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**DEFAULT AND SHUTDOWN ORDER
DOCKET NO. 2010-0611-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, TEX. HEALTH & SAFETY CODE ch. 382, 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 Commission also considered the Executive Director's Motion requesting entry of an Order requiring the respondent, LONDONDERRY ENTERPRISES, INC. D/B/A New Londonderry Food Mart ("Respondent"), to shutdown or remove from service the underground storage tanks ("USTs") at the New Londonderry Food Mart facility, located at 24900 Kuykendahl Road, Tomball, Harris County, Texas.

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

FINDINGS OF FACT

1. Respondent owns and operates as, defined in 30 TEX. ADMIN. CODE § 334.2(70) and (73), two USTs and a convenience store with retail sales of gasoline located at 24900 Kuykendahl Road, Tomball, Harris County, Texas (the "Station").
2. The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. On February 17, 2010, an investigator from the TCEQ Houston Regional Office documented that Respondent:
 - a. Failed to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on August 31, 2009;
 - b. 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, five fuel deliveries were accepted without a delivery certificate;

- c. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel;
- d. Failed to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), failed to test the line leak detectors at least once per year for performance and operational reliability, failed to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and failed to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day;
- e. Failed to demonstrate acceptable financial assurance for taking corrective action for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST;
- f. Failed to maintain the required UST records and make them immediately available for inspection upon request by agency personnel;
- g. Failed to ensure that a legible tag, label, or marking with the tank number, according to the UST registration and self-certification form, is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube;
- h. Failed to install an emergency shutoff valve (also known as a shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves were not securely anchored as required under dispenser nos. 5, 6, 7 and 8;
- i. Failed to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, and failed to remove and properly dispose of any liquid found during an inspection within 72 hours. Specifically, the Station was not maintaining a spill bucket inspection log and there was liquid found in the spill buckets;
- j. Failed to equip the tank with a valve or other appropriate device designed to automatically shut off the flow of regulated substances into the tank when the liquid reaches a preset level no higher than 95% capacity level for the tank. Specifically, overfill prevention equipment was not installed;
- k. Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment;
- l. Failed to verify proper operation of Stage II equipment at least once every 12 months. Specifically, the Stage II annual compliance testing had not been conducted; and

- m. Failed to maintain Stage II records at the Station. Specifically, the daily inspection records were not made immediately available for review at the time of the investigation.
4. By letter dated April 9, 2010, the TCEQ Houston Regional Office provided Respondent with notice of the violations and TCEQ's authority to shut down and remove from service USTs not in compliance with release detection, spill and/or overfill prevention, corrosion protection, and/or financial assurance requirements if the violations are not corrected.
 5. The Executive Director recognizes that Respondent implemented the following corrective measures at the Station:
 - a. Obtained acceptable financial assurance on March 4, 2010 (Finding of Fact No. 3.e.);
 - b. Began maintaining all required UST records on March 18, 2010 (Finding of Fact No. 3.f.);
 - c. Submitted documentation to the Houston Regional Office demonstrating the UST fill tubes had been permanently marked on April 30, 2010 (Finding of Fact No. 3.g.);
 - d. Submitted documentation to the Houston Regional Office demonstrating that the emergency shutoff valves had been properly secured on April 30, 2010 (Finding of Fact No. 3.h.); and
 - e. Completed testing of the Stage II vapor recovery system on April 14, 2010, with passing results (Finding of Fact No. 3.i.).
 6. 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 LONDONDERRY ENTERPRISES, INC. D/B/A New Londonderry Food Mart" (the "EDPRP") in the TCEQ Chief Clerk's office on August 18, 2010.
 7. By letter dated August 18, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
 8. More than 20 days have elapsed since Respondent received notice of the EDPRP provided by the Executive Director. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.
 9. By letter dated September 21, 2010, TCEQ provided Respondent with notice of TCEQ's intent to order the USTs at the Station to be shut down and removed from service if Respondent failed to correct the release detection and overfill protection violations within 30 days after Respondent's receipt of the notice.

10. As of the date of entry of this Order, Respondent has not provided the Executive Director with documentation demonstrating that the release detection and overfill protection violations alleged in Finding of Fact Nos. 3.d. and j. have been corrected.
11. The USTs at the Station do not have release detection and overfill protection as required by 30 TEX. ADMIN. CODE §§ 334.50(b)(1)(A) and 51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(1) and (2), and may be releasing petroleum products to the environment. Therefore, conditions at the Station constitute an imminent peril to public health, safety, and welfare.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Respondent violated 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), by failing to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date.
3. As evidenced by Finding of Fact No. 3.b., Respondent violated 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs.
4. As evidenced by Finding of Fact No. 3.c., Respondent violated 30 TEX. ADMIN. CODE § 334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.
5. As evidenced by Finding of Fact No. 3.d., Respondent violated 30 TEX. ADMIN. CODE § 334.50(b)(1)(A), (b)(2)(A)(i)(III), (d)(1)(B)(ii) and (d)(1)(B)(iii)(I), and TEX. WATER CODE § 26.3475(a) and (c)(1), by failing to monitor the UST for releases at a frequency of at least once per month (not to exceed 35 days between each monitoring), failing to test the line leak detectors at least once per year for performance and operational reliability, failing to conduct reconciliation of detailed inventory control records at least once each month, in a manner sufficiently accurate to detect a release which equals or exceeds the sum of 1.0% of the total substance flow-through for the month plus 130 gallons, and failing to record inventory volume measurement for the regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.
6. As evidenced by Finding of Fact No. 3.e., Respondent violated 30 TEX. ADMIN. CODE § 37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of the petroleum UST.
7. As evidenced by Finding of Fact No. 3.f., Respondent violated 30 TEX. ADMIN. CODE § 334.10(b), by failing to maintain the required UST records and make them immediately available for inspection upon request by agency personnel.

8. As evidenced by Finding of Fact No. 3.g., Respondent violated 30 TEX. ADMIN. CODE § 334.8(c)(5)(C), by failing to ensure that a legible tag, label, or marking with the tank number, according to the UST registration and self-certification form, is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube.
9. As evidenced by Finding of Fact No. 3.h., Respondent violated 30 TEX. ADMIN. CODE § 334.45(c)(3)(A), by failing to install an emergency shutoff valve (also known as a shear or impact valve) on each pressurized delivery or product line and ensure that it is securely anchored at the base of the dispenser. Specifically, the shear valves were not securely anchored as required under dispenser nos. 5, 6, 7 and 8.
10. As evidenced by Finding of Fact No. 3.i., Respondent violated 30 TEX. ADMIN. CODE § 334.42(i), by failing to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, and failing to remove and properly dispose of any liquid found during an inspection within 72 hours.
11. As evidenced by Finding of Fact No. 3.j., Respondent violated 30 TEX. ADMIN. CODE § 334.51(b)(2)(C) and TEX. WATER CODE § 26.3475(c)(2), by failing to equip the tank with a valve or other appropriate device designed to automatically shut off the flow of regulated substances into the tank when the liquid reaches a preset level no higher than 95% capacity level for the tank.
12. As evidenced by Finding of Fact No. 3.k., Respondent violated 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery system training regarding the purpose and correct operation of the Stage II equipment.
13. As evidenced by Finding of Fact No. 3.l., Respondent violated 30 TEX. ADMIN. CODE § 115.245(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to verify proper operation of Stage II equipment at least once every 12 months.
14. As evidenced by Finding of Fact No. 3.m., Respondent violated 30 TEX. ADMIN. CODE § 115.246(6) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain Stage II records at the Station.
15. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
16. As evidenced by Finding of Fact No. 8, Respondent 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 Respondent and assess the penalty recommended by the Executive Director.

17. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code and the Texas Health & Safety 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.
18. An administrative penalty in the amount of twenty-four thousand six hundred fifty-nine dollars (\$24,659.00). is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
19. As evidenced by Finding of Fact Nos. 9 and 10, Respondent failed to correct documented violations of Commission release detection and overfill protection requirements within 30 days after Commission received notice of the violations and notice of the Executive Director's intent to shut down the Station.
20. TEX. WATER CODE §§ 26.3475(e) and 26.352(i) authorize the Commission to order a UST owner or operator to shut down a UST system if, within 30 days after receiving notice of the violations, the owner or operator fails to correct violations of Commission regulatory requirements relating to release detection for tanks and/or piping, spill and overfill protection for tanks, corrosion protection for tanks and piping, and/or acceptable financial assurance.
21. 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.
22. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Respondent's UST fuel delivery certificate if the Commission finds that good cause exists.
23. Good cause for revocation of Respondent's UST fuel delivery certificate exists as justified by Finding of Fact Nos. 3, 6, 7, and 8 and Conclusions of Law Nos. 2 through 16.
24. As evidenced by Finding of Fact No. 11, current conditions at the Station constitute an imminent peril to public health, safety, and welfare. Therefore, pursuant to the Administrative Procedure Act, TEX. GOV'T CODE § 2001.144(a)(3), this Order is final and effective on the date rendered.

ORDERING PROVISIONS

NOW, THEREFORE, IT IS ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that:

1. Immediately upon the effective date of this Order, Respondent shall take the following steps to shut down operations of all USTs at the Station:
 - a. Cease dispensing fuel from the USTs;
 - b. Cease receiving deliveries of regulated substances into the USTs;
 - c. Padlock the dispensers;

- d. Empty the USTs of all regulated substances in accordance with 30 TEX. ADMIN. CODE § 334.54(d); and
 - e. Temporarily remove the USTs from service in accordance with 30 TEX. ADMIN. CODE § 334.54.
2. Respondent's USTs shall remain out of service, pursuant to TEX. WATER CODE § 26.3475 and as directed by Ordering Provision Nos. 1.a. through 1.e., until such time as Respondent demonstrates to the satisfaction of the Executive Director that the violations noted in Finding of Fact Nos. 3.d. and j. and Conclusion of Law Nos. 5 and 11 have been corrected.
3. If Respondent elects to permanently remove from service any portion of the UST system at the Station, Respondent shall, immediately upon the effective date of the Order, permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, and within 15 days after the effective date of this Order, submit a written report documenting compliance with 30 TEX. ADMIN. CODE § 334.55 to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Respondent's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ in accordance with 30 TEX. ADMIN. CODE §§ 334.7 and 334.8. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements set forth in this Order.
5. Within 10 days after the effective date of this Order, Respondent shall send its UST fuel delivery certificate to:

Petroleum Storage Tank Registration Team, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Within 15 days after the effective date of this Order, Respondent shall submit a detailed written report documenting the steps taken to comply with Ordering Provision Nos. 1.a. through 1.e. and 5. The written report shall include detailed supporting documentation such as photographs, receipts, and/or other records, shall be notarized by a State of Texas Notary Public, and shall 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."

The certified written report and supporting documentation shall be submitted to:

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

and

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

7. Respondent is assessed an administrative penalty in the amount of twenty-four thousand six hundred fifty-nine dollars (\$24,659.00). for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order resolve only the violations set forth in this Order. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here.
8. The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: LONDONDERRY ENTERPRISES, INC. DBA New Londonderry Food Mart; Docket No. 2010-0611-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
9. Prior to receiving deliveries of gasoline and resuming retail sales of gasoline, Respondent shall:
 - a. Cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form, in accordance with 30 TEX. ADMIN. CODE § 334.8 (Conclusion of Law Nos. 2 and 3);
 - b. Begin conducting proper inventory control procedures for all USTs at the Station, in accordance with 30 TEX. ADMIN. CODE § 334.48 (Conclusion of Law No. 4);
 - c. Begin maintaining all Stage II records at the Station, in accordance with 30 TEX. ADMIN. CODE § 115.246 (Conclusion of Law No. 14);

- d. Implement a release detection method for the UST system and piping at the Station and begin conducting volume measurement and reconciliation of inventory control records, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusion of Law No. 5);
 - e. Conduct the required annual testing of the line leak detectors for performance and operational reliability, in accordance with 30 TEX. ADMIN. CODE § 334.50 (Conclusion of Law No. 5);
 - f. Implement procedures to assure sumps, manways, overspill containers, or catchment basins are inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight, including the removal of all liquids and debris from the spill buckets, in accordance with 30 TEX. ADMIN. CODE § 334.42 (Conclusion of Law No. 10);
 - g. Install an overfill prevention device for the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.51 (Conclusion of Law No. 11);
 - h. Ensure at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system and each current employee receives in-house training regarding the purpose and correct operating procedures of the Stage II vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248 (Conclusion of Law No. 12); and
 - i. Obtain a new fuel delivery certificate from the TCEQ.
10. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Station where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
 11. Within 10 days of resuming retail sales of gasoline at the Station, Respondent shall submit written certification as described below, and include detailed supporting documentation such as photographs, receipts, and/or other records, demonstrating compliance with Ordering Provision No. 9. The written certification shall be notarized by a State of Texas Notary Public and shall 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 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."

The written certification and supporting documentation shall be submitted to:

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

and:

Waste Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

12. All relief not expressly granted in this Order is denied.
13. The provisions of this Order shall apply to and be binding upon Respondent, and Respondent is ordered to give notice of this Order to all personnel who maintain day-to-day control of the USTs at the Station.
14. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent is noncompliant with or in violation of any of the terms and conditions set forth in this Order.
15. This Order shall terminate five years from its effective date or when Respondent demonstrates to the satisfaction of the Executive Director all of the violations noted herein have been corrected, whichever is later.
16. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order is the date this decision was rendered, pursuant to TEX. GOV'T CODE § 2001.144(a)(3).

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF TAMMY L. MITCHELL

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

“My name is Tammy L. Mitchell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

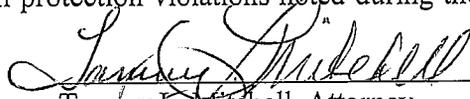
On behalf of the Executive Director of the Texas Commission on Environmental Quality, the ‘Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of LONDONDERRY ENTERPRISES, INC. DBA New Londonderry Food Mart’ (the ‘EDPRP’) was filed with the Office of the Chief Clerk on August 18, 2010.

The EDPRP was mailed to Respondent at its last known address on August 18, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as ‘unclaimed.’ The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

By letter dated September 21, 2010, sent via first class mail and certified mail, return receipt requested article no. 7010 0290 0002 7775 0353, I provided Respondent with notice of the TCEQ’s intent to order the USTs at the Station shut down and removed from service if the violations pertaining to release detection, overflow prevention equipment and financial assurance were not corrected within 30 days of Respondent’s receipt of the letter.

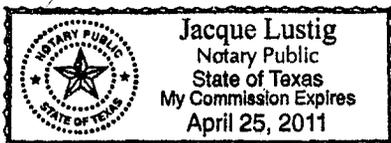
As of the date of this affidavit, I am not aware of any evidence that indicates that Respondent has corrected the release detection and overflow protection violations noted during the February 17, 2010, investigation.”



Tammy L. Mitchell, Attorney
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Tammy L. Mitchell, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 26th day of October, A.D., 2010.





Notary Signature