

**Executive Summary – Enforcement Matter – Case No. 41369
MURPHY OIL USA, INC.
RN105981765
Docket No. 2011-0462-EAQ-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

EAQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Murphy Express 8649, 2211 East Palm Valley Boulevard, Round Rock, Williamson County

Type of Operation:

Convenience store with retail fuel sales

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 5, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,760

Amount Deferred for Expedited Settlement: \$552

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,208

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average by Default

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: January 18, 2011
Date(s) of NOE(s): March 10, 2011

Violation Information

Failed to obtain approval for a modification of a previously approved underground storage tank (“UST”) facility plan prior to beginning a regulated activity over the Edwards Aquifer Transition Zone. Specifically, double wall USTs were being installed rather than triple wall USTs outlined in the UST facility plan dated September 28, 2010 [30 TEX. ADMIN. CODE § 213.4(a)(1) and (j)(5)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that by April 29, 2011, the Respondent received approval of the modification to the UST facility plan.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Dan L. Crawford, Environmental Manager, MURPHY OIL USA, INC., P.O. Box 7300, El Dorado, Arkansas 71731
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Mar-2011	Screening	23-Mar-2011	EPA Due	
	PCW	24-Mar-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	MURPHY OIL USA, INC.		
Reg. Ent. Ref. No.	RN105981765		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	41369	No. of Violations	1
Docket No.	2011-0462-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
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
 Approx. Cost of Compliance
 *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 23-Mar-2011

Docket No. 2011-0462-EAQ-E

PCW

Respondent MURPHY OIL USA, INC.

Policy Revision 2 (September 2002)

Case ID No. 41369

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105981765

Media [Statute] Edwards Aquifer

Enf. Coordinator JR Cao

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement for one NOV with a dissimilar violation.

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

Screening Date 23-Mar-2011

Docket No. 2011-0462-EAQ-E

PCW

Respondent MURPHY OIL USA, INC.

Policy Revision 2 (September 2002)

Case ID No. 41369

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105981765

Media [Statute] Edwards Aquifer

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 213.4(a)(1) and (j)(5)

Violation Description Failed to obtain approval for a modification of a previously approved underground storage tank (UST) facility plan prior to beginning a regulated activity over the Edwards Aquifer Transition Zone, as documented during an investigation conducted on January 18, 2011. Specifically, double wall USTs were being installed rather than triple wall USTs outlined in the UST facility plan dated September 28, 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (10%).

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 64

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

Violation Base Penalty \$3,000

Three monthly events are recommended from the investigation date (January 18, 2011) to the screening date (March 23, 2011).

Good Faith Efforts to Comply

10.0% Reduction \$300

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

Notes The Respondent came into compliance on April 29, 2011.

Violation Subtotal \$2,700

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$42

Violation Final Penalty Total \$2,760

This violation Final Assessed Penalty (adjusted for limits) \$2,760

Economic Benefit Worksheet

Respondent MURPHY OIL USA, INC.
Case ID No. 41369
Rea. Ent. Reference No. RN105981765
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$3,000	18-Jan-2011	29-Apr-2011	0.28	\$42	n/a	\$42
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit the UST modification plan. 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

\$3,000

TOTAL

\$42

Compliance History

Customer/Respondent/Owner-Operator: CN601187875 MURPHY OIL USA, INC. Classification: AVERAGE Rating: 2.92
Regulated Entity: RN105981765 MURPHY EXPRESS 8649 Classification: AVERAGE BY DEFAULT Site Rating: 3.01

ID Number(s): EDWARDS AQUIFER REGISTRATION 11-10081001
EDWARDS AQUIFER REGISTRATION 11-10081002
PETROLEUM STORAGE TANK REGISTRATION 84268
REGISTRATION

Location: 2211 EAST PALM VALLEY BLVD, ROUND ROCK, TX, 78664

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: March 23, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: March 23, 2006 to March 23, 2011

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

Name: JR Cao Phone: (512) 239-2543

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? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
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	02/08/2011	(865566)
2	01/28/2011	(880516)
3	03/10/2011	(892044)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	02/08/2011	(865566)	CN601187875
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 213, SubChapter A 213.4(k)		
Description:	Failure to have a copy of the approved UST plan until all regulated activities are completed.		
- 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
MURPHY OIL USA, INC.
RN105981765**

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

**AGREED ORDER
DOCKET NO. 2011-0462-EAQ-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding MURPHY OIL USA, INC. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a convenience store with retail fuel sales located at 2211 East Palm Valley Boulevard in Round Rock, Williamson County, Texas (the "Site").
2. The Site adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE ch. 26.001(5).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 15, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand Seven Hundred Sixty Dollars (\$2,760) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Two Hundred Eight Dollars

- (\$2,208) of the administrative penalty and Five Hundred Fifty-Two Dollars (\$552) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director recognizes that by April 29, 2011, the Respondent received approval of the modification to the underground storage tank ("UST") facility plan.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have failed to obtain approval for a modification of a previously approved UST facility plan prior to beginning a regulated activity over the Edwards Aquifer Transition Zone, in violation of 30 TEX. ADMIN. CODE § 213.4(a)(1) and (j)(5). Specifically, double wall USTs were being installed rather than triple wall USTs outlined in the UST facility plan dated September 28, 2010, as documented during an investigation conducted on January 18, 2011.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: MURPHY OIL USA, INC., Docket No. 2011-0462-EAQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/6/11

Date

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

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

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

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



Signature

7/7/11

Date



Name (Printed or typed)
Authorized Representative of
MURPHY OIL USA, INC.

envir. mgr.

Title

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