

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1190-PST-E **TCEQ ID:** RN101434082 **CASE NO.:** 40079
RESPONDENT NAME: HUYNH & LE CORPORATION, INC.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: B&C Quick Stop, 5204 Farm-to-Market Road 517 East, Dickinson, Galveston County</p> <p>TYPE OF OPERATION: Two inactive underground storage tanks ("USTs")</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on February 21, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Marty Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Minh C. Huynh, President, HUYNH & LE CORPORATION, INC., 12147 Piping Rock Drive, Houston, Texas 77077 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 2, 2010</p> <p>Date of NOV/NOE Relating to this Case: June 11, 2010 (NOE)</p> <p>Background Facts: This was a follow-up investigation.</p> <p>WASTE</p> <p>1) Failed to provide corrosion protection for the UST system. Specifically, at the time of the inspection, the cathodic protection system had been turned off [30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d)].</p> <p>2) Failed to assure that, with the exception of vent lines, all piping, pumps, manways, tank access points, and ancillary equipment is capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons [30 TEX. ADMIN. CODE § 334.54(b)(2)].</p>	<p>Total Assessed: \$5,700</p> <p>Total Deferred: \$1,140 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$150 (remaining \$4,410 due in 35 monthly payments of \$126 each)</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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Provide corrosion protection for all underground components of the UST system and ensure that the corrosion protection system is functioning properly; and</p> <p>ii. Assure that, with the exception of vent lines, all piping, pumps, manways, tank access points, and ancillary equipment are capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. and a.ii.</p>

Additional ID No(s): PST 43981



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	28-Jun-2010	Screening	23-Jul-2010	EPA Due	
	PCW	23-Jul-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	HUYNH & LE CORPORATION, INC.
Reg. Ent. Ref. No.	RN101434082
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40079	No. of Violations	2
Docket No.	2010-1190-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Marty Hott
		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	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	14.0% Enhancement	Subtotals 2, 3, & 7	\$700
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Notes Enhancement for two NOVs with same/similar violations and two NOVs with dissimilar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$344
 Approx. Cost of Compliance \$6,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,700
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$5,700
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,700
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,140
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,560
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Screening Date 23-Jul-2010

Docket No. 2010-1190-PST-E

PCW

Respondent HUYNH & LE CORPORATION, INC.

Policy Revision 2 (September 2002)

Case ID No. 40079

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434082

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marty Hott

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>)	2	10%
	Other written NOVs	2	4%
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</i>	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 14%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with same/similar violations and two NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 14%

Screening Date 23-Jul-2010

Docket No. 2010-1190-PST-E

PCW

Respondent HUYNH & LE CORPORATION, INC.

Policy Revision 2 (September 2002)

Case ID No. 40079

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434082

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marty Hott

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.49(a) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to provide corrosion protection for the underground storage tank ("UST") system. Specifically, at the time of the inspection, the cathodic protection system had been turned off.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

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

51 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the June 2, 2010 investigation date to the July 23, 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 \$338

Violation Final Penalty Total \$2,850

This violation Final Assessed Penalty (adjusted for limits) \$2,850

Economic Benefit Worksheet

Respondent HUYNH & LE CORPORATION, INC.
Case ID No. 40079
Reg. Ent. Reference No. RN101434082
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$6,000	2-Jun-2010	23-Mar-2011	0.81	\$16	\$322	\$338
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 provide corrosion protection for the UST system and ensure that the corrosion protection system is functioning properly. The date required is the investigation date. The final date is the expected 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

\$6,000

TOTAL

\$338

Screening Date 23-Jul-2010

Docket No. 2010-1190-PST-E

PCW

Respondent HUYNH & LE CORPORATION, INC.

Policy Revision 2 (September 2002)

Case ID No. 40079

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101434082

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Marty Hott

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.54(b)(2)

Violation Description

Failed to assure that, with the exception of vent lines, all piping, pumps, manways, tank access points, and ancillary equipment is capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

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

51 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

One quarterly event is recommended from the June 2, 2010 investigation date to the July 23, 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 \$6

Violation Final Penalty Total \$2,850

This violation Final Assessed Penalty (adjusted for limits) \$2,850

Economic Benefit Worksheet

Respondent HUYNH & LE CORPORATION, INC.
Case ID No. 40079
Reg. Ent. Reference No. RN101434082
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment	\$100	2-Jun-2010	23-Mar-2011	0.81	\$0	\$5	\$6
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 secure the UST system. The date required is the date of the investigation and the final date is the expected 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

\$6

Compliance History Report

Customer/Respondent/Owner-Operator: CN600744841 Huynh & Le Corporation, Inc. Classification: AVERAGE Rating: 7.00
 Regulated Entity: RN101434082 B&C QUICK STOP Classification: AVERAGE Site Rating: 7.00
 ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 43981
 REGISTRATION
 Location: 5204 FARM-TO-MARKET ROAD 517 EAST, DICKINSON,
 GALVESTON COUNTY, TEXAS
 TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: July 07, 2010
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: July 07, 2005 to July 07, 2010

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

Name: Marty Hott Phone: (512) 239-2587

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: 9/1/2009 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	08/31/2006	(510327)
2	12/18/2006	(517585)
3	04/16/2007	(537615)
4	08/10/2007	(564765)
5	09/15/2009	(776206)
6	06/24/2010	(826806)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	08/31/2006	(510327)	CN600744841
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.246(7)(A)		
Description:	Failure to maintain records on-site and make immediately available for review upon request.		
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.246(6)		
Description:	Failure to maintain a record of the results of the daily inspections conducted.		
Self	NO		Classification: Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.244(3)		
Description:	Failure to conduct monthly inspections.		
Self	NO		Classification: Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(4)		
Description:	Failure to maintain proof of attendance and completion of the training specified in §115.248.		

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)
Description: Failure to maintain a record of any maintenance conducted on any part of the Stage II equipment.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
Description: Failure to maintain a record of the results of testing conducted at the motor vehicle fuel dispensing facility.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
Description: Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system.

Date 12/18/2006 (517585) CN600744841

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.246(7)(A)
Description: Failure to maintain records on-site and make immediately available for review upon request.

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

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 115, SubChapter C 115.244(3)
Description: Failure to conduct monthly inspections.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(4)
Description: Failure to maintain proof of attendance and completion of the training specified in §115.248.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(3)
Description: Failure to maintain a record of any maintenance conducted on any part of the Stage II equipment.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(5)
Description: Failure to maintain a record of the results of testing conducted at the motor vehicle fuel dispensing facility.

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
Description: Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order(s) for the Stage II vapor recovery system.

Date 03/31/2009 (737180) CN600744841

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
Description: Failure to provide amended registration for any change or additional information regarding USTs.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)(2)
Description: Failure to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.54(c)
Description: Failure to assure that the following requirements are met during the period that the UST system remains temporarily out of service.

Date 09/15/2009 (776206) CN600744841

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)(2)
Description: Failure to assure that, with the exception of vent lines, all piping, pumps, manways, and ancillary equipment shall be capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons.

Self Report? NO Classification Moderate
Citation: 30 TAC Chapter 334, SubChapter C 334.54(c)
Description: Failure to assure that the following requirements are met during the period that the UST system remains temporarily out of service.

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
HUYNH & LE CORPORATION,
INC.
RN101434082

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2010-1190-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding HUYNH & LE CORPORATION, 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 two inactive underground storage tanks ("UST") at 5204 Farm-to-Market Road 517 East in Dickinson, Galveston County, Texas (the "Facility").
2. The Respondent's two USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 16, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Seven Hundred Dollars (\$5,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Hundred Fifty Dollars (\$150) of the administrative penalty and One Thousand One Hundred Forty Dollars (\$1,140) 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.

The remaining amount of Four Thousand Four Hundred Ten Dollars (\$4,410) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Twenty-Six Dollars (\$126) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director 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.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to provide corrosion protection for the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a) and TEX. WATER CODE § 26.3475(d), as documented during an

investigation conducted on June 2, 2010. Specifically, at the time of the inspection, the cathodic protection system had been turned off.

2. Failed to assure that, with the exception of vent lines, all piping, pumps, manways, tank access points, and ancillary equipment is capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons, in violation of 30 TEX. ADMIN. CODE § 334.54(b)(2), as documented during an investigation conducted on June 2, 2010.

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: HUYNH & LE CORPORATION, INC., Docket No. 2010-1190-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Provide corrosion protection for all underground components of the UST system and ensure that the corrosion protection system is functioning properly, in accordance with 30 TEX. ADMIN. CODE § 334.49; and
 - ii. Assure that, with the exception of vent lines, all piping, pumps, manways, tank access points, and ancillary equipment are capped, plugged, locked, and/or otherwise secured to prevent access, tampering, or vandalism by unauthorized persons, in accordance with 30 TEX. ADMIN. CODE § 334.54.
 - b. Within 45 days after the effective date of this Agreed Order; submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance

with Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Srdler
For the Executive Director

Date 1/21/2011

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.

Minh

Signature

DEC 4th, 2010
Date

MINH HUYNH C., PRESIDENT
Name (Printed or typed)
Authorized Representative of
HUYNH & LE CORPORATION, INC.

PRESIDENT
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.