

Executive Summary – Enforcement Matter – Case No. 41180
LAPORTE INDUSTRIES, L.L.C.
RN102855053
Docket No. 2011-0298-PST-E

Order Type:
Default Order

Findings Order Justification:
N/A

Media:
PST

Small Business:
Yes

Location(s) Where Violation(s) Occurred:
1708 Highway 146 North, La Porte, Harris County

Type of Operation:
convenience store

Other Significant Matters:

Additional Pending Enforcement Actions:	None
Past-Due Penalties:	None
Past-Due Fees:	\$473.60 (Account No. 0069748U)
Other:	None
Interested Third-Parties:	None

Texas Register Publication Date: January 20, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$4,550

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$4,550

Compliance History Classifications:

Person/CN – Average
Site/RN – Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: January 25, 2011; February 15, 2011
Date(s) of NOV(s): February 23, 2010; May 18, 2010
Date(s) of NOE(s): February 9, 2011

Violation Information

1. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].
2. Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].
3. Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0069748U [30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702]

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Within 30 days,
 - a. Permanently remove the UST system from service; and
 - b. Submit payment for all outstanding fees;
2. Within 45 days, submit a properly completed UST registration form to reflect the current ownership and operational status of the UST system
3. Within 60 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: October 27, 2011
Date(s) Green Card(s) Signed: October 29, 2011
Date(s) Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Sharesa Y. Alexander, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Scott Humphrey, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Bridgette Lee, Water Enforcement Section, (512) 239-2565

TCEQ Regional Contact: Nicole Bealle, Houston Regional Office, (713) 767-3623

Respondent: Mohammed Salman, President, La Porte Industries, L.L.C., 1708 S. Broadway Street, La Porte, Texas 77571

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	14-Feb-2011	Screening	15-Feb-2011	EPA Due	
	PCW	21-Sep-2011				

RESPONDENT/FACILITY INFORMATION						
Respondent	LAPORTE INDUSTRIES, L.L.C.					
Reg. Ent. Ref. No.	RN102855053					
Facility/Site Region	12-Houston	Major/Minor Source	Minor			

CASE INFORMATION						
Enf./Case ID No.	41180	No. of Violations	3			
Docket No.	2011-0298-PST-E	Order Type	1660			
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No			
Multi-Media		Enf. Coordinator	Bridgett Lee			
		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	\$3,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30.0% Enhancement	Subtotals 2, 3, & 7	\$1,050
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Notes: Recommended enhancement for two Notices of Violation with same/similar violations and one agreed order with denial of liability.

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: \$8,041
 Approx. Cost of Compliance: \$18,100
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,550
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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	\$4,550
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,550
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for expedited settlement.

PAYABLE PENALTY	\$4,550
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Screening Date 15-Feb-2011

Docket No. 2011-0298-PST-E

PCW

Respondent LAPORTE INDUSTRIES, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41180

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102855053

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	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%
<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) 30%

>> 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

Recommended enhancement for two Notices of Violation with same/similar violations and one agreed order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 15-Feb-2011

Docket No. 2011-0298-PST-E

PCW

Respondent LAPORTE INDUSTRIES, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41180

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102855053

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.7(d)(3)

Violation Description Failed to notify the agency of any change or additional information regarding the underground storage tanks ("USTs") within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the UST system and the correct owner information.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					0%
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of the rule requirement was not met.					

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 21 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	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

\$0

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 \$44

Violation Final Penalty Total \$1,300

This violation Final Assessed Penalty (adjusted for limits) \$1,300

Economic Benefit Worksheet

Respondent LAPORTE INDUSTRIES, L.L.C.
Case ID No. 41180
Req. Ent. Reference No. RN102855053
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	26-Dec-2002	12-Nov-2011	8.88	\$44	n/a	\$44

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The date required is 30 days after the date of ownership change. The final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$44

Screening Date 15-Feb-2011

Docket No. 2011-0298-PST-E

PCW

Respondent LAPORTE INDUSTRIES, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 41180

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102855053

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Bridgett Lee

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.47(a)(2)

Violation Description Failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, Percent (0%).

Matrix Notes Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 21

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

Violation Base Penalty \$2,500

One monthly event is recommend based on documentation of the violation during the January 25, 2011 record review date to the February 15, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction \$0

Table for Good Faith Efforts: Extraordinary, Ordinary, N/A (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 \$7,996 Violation Final Penalty Total \$3,250

This violation Final Assessed Penalty (adjusted for limits) \$3,250

Economic Benefit Worksheet

Respondent LAPORTE INDUSTRIES, L.L.C.
Case ID No. 41180
Req. Ent. Reference No. RN102855053
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$18,000	26-Dec-2002	12-Nov-2011	8.88	\$7,996	n/a	\$7,996
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to permanently remove from service three USTs with a combined capacity of 18,000 gallons at a cost of \$1 per gallon of tank capacity. The date required is the date of ownership change. The final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$18,000

TOTAL

\$7,996

Screening Date 15-Feb-2011
Respondent LAPORTE INDUSTRIES, L.L.C.
Case ID No. 41180
Reg. Ent. Reference No. RN102855053
Media [Statute] Petroleum Storage Tank
Enf. Coordinator Bridgett Lee

Docket No. 2011-0298-PST-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Violation Number
Rule Cite(s)
Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Percent
Matrix Notes

Adjustment

Violation Events

Number of Violation Events **Number of violation days**
mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

Good Faith Efforts to Comply

0.0% Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A		(mark with x)

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent LAPORTE INDUSTRIES, L.L.C.
Case ID No. 41180
Req. Ent. Reference No. RN102855053
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				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

N/A

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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History

Customer/Respondent/Owner-Operator: CN603471590 LAPORTE INDUSTRIES, L.L.C. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN102855053 STOP N DRIVE Classification: AVERAGE Site Rating: 3.01
ID Number(s): PETROLEUM STORAGE TANK STAGE II REGISTRATION 40555
PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 40555
Location: 1708 HIGHWAY 146 N, LA PORTE, TX, 77571
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: March 29, 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: Bridgett Lee Phone: (512) 239 - 2565

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.

Effective Date: 01/28/2008 ADMINORDER 2006-2179-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)

30 TAC Chapter 37, SubChapter I 37.815(b)

Description: A mechanism was received, but it did not meet requirements.

- 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 11/16/2006 (518459)

2 03/11/2008 (618177)

3 02/23/2010 (792084)

4 05/18/2010 (799286)

5 02/09/2011 (893058)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/23/2010 (792084) CN603471590

Self Report? NO Classification: Minor

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 within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Date: 05/18/2010 (799286) CN603471590

Self Report? NO Classification: Minor

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 within 30 days from the date of the occurrence of the change or addition, or within 30 days of the date on which the owner or operator first became aware of the change or addition, as applicable.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, an existing UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
LAPORTE INDUSTRIES, L.L.C.;
RN102855053**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2011-0298-PST-E

At its _____ agenda meeting, 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. 5, 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is LAPORTE INDUSTRIES, L.L.C. ("Respondent").

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

FINDINGS OF FACT

1. Respondent owns, as defined in 30 TEX. ADMIN. CODE § 334.2(73), an underground storage tank ("UST") system and a convenience store located at 1708 Highway 146 North in La Porte, Harris County, Texas (the "Facility"). The USTs at the Facility 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.
2. During a record review conducted on January 25, 2011, a TCEQ Houston Regional Office investigator documented that Respondent:
 - a. Failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition. Specifically, the registration was not updated to reflect the current operational status of the UST system and the correct owner information; and
 - b. Failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
3. During an overdue fee investigation conducted on February 15, 2011, a TCEQ Enforcement Coordinator documented that Respondent failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0069748U.
4. Respondent received notice of the violations alleged in Findings of Fact Nos. 2.a. and 2.b. on or about February 14, 2011. Respondent received notice of the violation alleged in Finding of Fact No. 3 on or about May 11, 2011.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of LAPORTE INDUSTRIES, L.L.C." (the "EDPRP") in the TCEQ Chief Clerk's office on October 27, 2011.
6. By letter dated October 27, 2011, sent to Respondent's last known address via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. According to the return receipt "green card," Respondent received notice of the EDPRP on October 29, 2011, as evidenced by the signature on the card.
7. More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to notify the agency of any change or additional information regarding the UST system within 30 days of the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to permanently remove from service no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
4. As evidenced by Finding of Fact No. 3, Respondent failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0069748U, in violation of 30 TEX. ADMIN. CODE § 334.22(a) and TEX. WATER CODE § 5.702.
5. As evidenced by Findings of Fact Nos. 5 and 6, 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(a).
6. As evidenced by Finding of Fact No. 7, 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.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of state statutes within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.

8. An administrative penalty in the amount of four thousand five hundred fifty dollars (\$4,550.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of four thousand five hundred fifty dollars (\$4,550.00) 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 completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. 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 "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: LAPORTE INDUSTRIES, L.L.C.; Docket No. 2011-0298-PST-E" to:

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

3. Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Order, Respondent shall:
 - i. Permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55; and
 - ii. Submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: LAPORTE INDUSTRIES, L.L.C., TCEQ Financial Administration Account No. 0069748U," 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

- b. Within 45 days the effective date of this Order, Respondent shall submit a properly completed UST registration form to reflect the current ownership and operational status of the UST system, in accordance with 30 TEX. ADMIN. CODE § 334.7 to:

Registration and Reporting Section
Permitting & Registration Support Division, MC 138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, in accordance with Ordering Provision No. 3.d., below, to demonstrate compliance with Ordering Provisions Nos. 3.a. and 3.b.
- d. The certification required by these Ordering Provisions shall be accompanied by detailed supporting documentation, including 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."

Respondent shall submit the written certification and supporting documentation necessary to demonstrate compliance with these Ordering Provisions to:

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

and:

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

4. All relief not expressly granted in this Order is denied.

5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

S I G N A T U R E P A G E

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF SHARESA Y. ALEXANDER

STATE OF TEXAS

§

COUNTY OF TRAVIS

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"My name is Sharesa Y. Alexander. 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 LAPORTE INDUSTRIES, L.L.C." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 27, 2011.

The EDPRP was mailed to Respondent's last known address on October 27, 2011, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on October 29, 2011, as evidenced by the signature on the card.

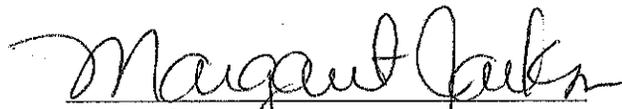
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing.



Sharesa Y. Alexander, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Sharesa Y. Alexander, 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 20th day of December, A.D. 2011.


Notary Signature