

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 44132
B F Beverage, Inc dba NRH Shell
RN101550713
Docket No. 2012-0979-PST-E

Order Type:

Default Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

6551 Grapevine Hwy, North Richland Hills, Tarrant County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: None
Past-Due Penalties: \$653.00 (2011-0144-PST-E; referred for collection)
Past-Due Fees: None
Other: None
Interested Third-Parties: None

Texas Register Publication Date: December 21, 2012

Comments Received: None

Penalty Information

Total Penalty Assessed: \$21,280

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$21,280

Compliance History Classifications:

Person/CN – Poor
Site/RN – Poor

Major Source: No

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Date(s) of Investigation: March 28, 2012

Date(s) of NOV(s): N/A

Date(s) of NOE(s): April 27, 2012

B F Beverage, Inc dba NRH Shell

RN101550713

Docket No. 2012-0979-PST-E

Violation Information

1. Failed to renew a 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)].
2. Failed to make available to a common carrier a valid, current 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)].
3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)].

Corrective Actions/Technical Requirements**Corrective Action(s) Completed:**

1. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate; and
2. Implemented a release detection method for all USTs including reconciliation of inventory control records.

Technical Requirements:

1. The Facility's UST fuel delivery certificate is revoked immediately.
2. Immediately cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ.
3. Within 10 days, send the Facility's UST fuel delivery certificate to the TCEQ.
4. Within 15 days, submit written certification to demonstrate compliance with Technical Requirements Nos. 2 and 3.
5. Upon obtaining a new fuel delivery certificate, post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times.

Litigation Information**Date Petition(s) Filed:** October 12, 2012**Date Green Card(s) Signed:** October 16, 2012**Date Answer(s) Filed:** N/A**Contact Information****TCEQ Attorneys:** Jennifer Cook, Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363**TCEQ Enforcement Coordinator:** Steve Van Landingham, Enforcement Division, (512) 239-5717**TCEQ Regional Contact:** Sam Barrett, Dallas/Fort Worth Regional Office, (817) 588-5800**Respondent:** Raheem Sundrani, Director, B F Beverage, Inc
1012 East Seminole Trail, Carrollton, Texas 75007**Respondent's Attorney:** N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 30-Apr-2012 | Screening | 8-May-2012 | EPA Due | |
| | PCW | 9-Aug-2012 | | | | |

| | | | | | | |
|--|---------------------------------|---------------------------|-------|--|--|--|
| RESPONDENT/FACILITY INFORMATION | | | | | | |
| Respondent | B F BEVERAGE, INC dba NRH Shell | | | | | |
| Reg. Ent. Ref. No. | RN101550713 | | | | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor | | | |

| | | | | | | |
|--------------------------------|------------------------|------------------------------|-----------------------|----------|--|--|
| CASE INFORMATION | | | | | | |
| Enf./Case ID No. | 44132 | No. of Violations | 3 | | | |
| Docket No. | 2012-0979-PST-E | Order Type | 1660 | | | |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No | | | |
| Multi-Media | | Enf. Coordinator | Steven Van Landingham | | | |
| | | EC's Team | Enforcement Team 6 | | | |
| Admin. Penalty \$ Limit | Minimum | \$0 | Maximum | \$25,000 | | |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$14,000 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | |
|---------------------------|-------------------|--------------------------------|---------|
| Compliance History | 52.0% Enhancement | Subtotals 2, 3, & 7 | \$7,280 |
|---------------------------|-------------------|--------------------------------|---------|

Notes: Enhancement for two orders containing a denial of liability, one NOV with dissimilar violations, and a poor performer classification.

| | | | | |
|--------------------|----|------------------|-------------------|-----|
| Culpability | No | 0.0% Enhancement | Subtotal 4 | \$0 |
|--------------------|----|------------------|-------------------|-----|

Notes: The Respondent does not meet the culpability criteria.

| | | |
|--|-------------------|-----|
| Good Faith Effort to Comply Total Adjustments | Subtotal 5 | \$0 |
|--|-------------------|-----|

| | | | |
|-------------------------|-------------------|-------------------|-----|
| Economic Benefit | 0.0% Enhancement* | Subtotal 6 | \$0 |
|-------------------------|-------------------|-------------------|-----|

Total EB Amounts: \$4; Approx. Cost of Compliance: \$1,600; *Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$21,280 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|-----|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 0.0% | Adjustment | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

| | |
|-----------------------------|----------|
| Final Penalty Amount | \$21,280 |
|-----------------------------|----------|

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$21,280 |
|-----------------------------------|-------------------------------|----------|

| | | | |
|-----------------|----------------|-------------------|-----|
| DEFERRAL | 0.0% Reduction | Adjustment | \$0 |
|-----------------|----------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral not offered for non-expedited settlement.

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$21,280 |
|------------------------|----------|

Screening Date 8-May-2012

Docket No. 2012-0979-PST-E

PCW

Respondent B F BEVERAGE, INC dba NRH Shell

Policy Revision 3 (September 2011)

Case ID No. 44132

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101550713

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Van Landingham

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>) | 2 | 40% |
| | 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) 42%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Poor Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for two orders containing a denial of liability, one NOV with dissimilar violations, and a poor performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 52%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 52%

Screening Date 8-May-2012

Docket No. 2012-0979-PST-E

PCW

Respondent B F BEVERAGE, INC dba NRH Shell

Policy Revision 3 (September 2011)

Case ID No. 44132

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101550713

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Van Landingham

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 renew a 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, 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 0.0% |
| | Potential | | | | |

>> Programmatic Matrix

| Matrix Notes | Falsification | Harm | | | Percent |
|--------------|---------------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | | x | | | 5.0% |

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

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1 213 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | x |
| single event | |

mark only one with an x

Violation Base Penalty \$1,250

One annual 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 \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,900

This violation Final Assessed Penalty (adjusted for limits) \$1,900

Economic Benefit Worksheet

Respondent B F BEVERAGE, INC dba NRH Shell
Case ID No. 44132
Reg. Ent. Reference No. RN101550713
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 | 31-Aug-2011 | 31-Mar-2012 | 0.58 | \$3 | n/a | \$3 |

Notes for DELAYED costs

Estimated cost to renew a TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form. The date required is the delivery certificate expiration date and the final date is the compliance date.

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 \$3

Screening Date 8-May-2012

Docket No. 2012-0979-PST-E

PCW

Respondent B F BEVERAGE, INC dba NRH Shell

Policy Revision 3 (September 2011)

Case ID No. 44132

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101550713

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Van Landingham

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, the Respondent received 12 fuel deliveries without a delivery certificate.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

| OR | Release | Harm | | | Percent |
|----|-----------|-------|----------|-------|---------|
| | | Major | Moderate | Minor | |
| | Actual | | | | 3.0% |
| | Potential | | | x | |

>> Programmatic Matrix

| | Falsification | Major | Moderate | Minor | Percent |
|--|---------------|-------|----------|-------|---------|
| | | | | | 0.0% |

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 \$24,250

\$750

Violation Events

Number of Violation Events 12 12 Number of violation days

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | x |

mark only one with an x

Violation Base Penalty \$9,000

12 single events are recommended for accepting 12 fuel deliveries.

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 \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$13,680

This violation Final Assessed Penalty (adjusted for limits) \$13,680

Economic Benefit Worksheet

Respondent B F BEVERAGE, INC dba NRH Shell
Case ID No. 44132
Reg. Ent. Reference No. RN101550713
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 | | | | 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 8-May-2012

Docket No. 2012-0979-PST-E

PCW

Respondent B F BEVERAGE, INC dba NRH Shell

Policy Revision 3 (September 2011)

Case ID No. 44132

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101550713

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Van Landingham

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and (d)(1)(B)(ii) and Tex. Water Code § 26.3475(c)(1)

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Also, failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | | Percent |
|-----------|-------|----------|-------|---------|
| | Major | Moderate | Minor | |
| Actual | | | | 15.0% |
| Potential | x | | | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | 0.0% |

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 \$21,250

\$3,750

Violation Events

Number of Violation Events 1 3 Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$3,750

One monthly event is recommended based on documentation of the violation during the March 28, 2012 investigation date to the March 31, 2012 compliance 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 \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$5,700

This violation Final Assessed Penalty (adjusted for limits) \$5,700

Economic Benefit Worksheet

Respondent B F BEVERAGE, INC dba NRH Shell
Case ID No. 44132
Reg. Ent. Reference No. RN101550713
Media Petroleum Storage Tank
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

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

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|------|-----|-----|-----|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,500 | 28-Mar-2012 | 31-Mar-2012 | 0.01 | \$1 | n/a | \$1 |

Notes for DELAYED costs

Estimated cost to monitor the USTs for releases including reconciliation of inventory control records. The date required is the investigation date and the final date is the compliance date.

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

\$1,500

TOTAL

\$1

Compliance History Report

| | | | | |
|---|---|-------------------|----------------------|---------------------|
| Customer/Respondent/Owner-Operator: | CN600744262 | B F BEVERAGE, INC | Classification: POOR | Rating: 357.50 |
| Regulated Entity: | RN101550713 | NRH SHELL | Classification: POOR | Site Rating: 357.50 |
| ID Number(s): | PETROLEUM STORAGE TANK REGISTRATION | | REGISTRATION | 53688 |
| Location: | 6551 GRAPEVINE HWY, NORTH RICHLAND HILLS, TX, 76180 | | | |
| TCEQ Region: | REGION 04 - DFW METROPLEX | | | |
| Date Compliance History Prepared: | April 30, 2012 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | April 30, 2007 to April 30, 2012 | | | |

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

Name: Steven Van Landingham Phone: (512) 239 - 5717

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? B F Beverage, Inc
4. If YES, who was/were the prior owner(s)/operator(s)? PRINCE A, INC
5. If YES, when did the change(s) in owner or operator occur? 4/1/2009
6. Rating Date: 9/1/2011 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: 06/19/2008

ADMINORDER 2005-1476-PST-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: Failure to put the Automatic Tank Gauge (ATG) into test mode once per month, reconcile the monthly inventory control records as a method of release detection. Failed to conduct the annual pipe tightness test on all pressurized product lines and conduct the annual line leak detector test for all line leak detectors within the past 12 months.

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
5C THSC Chapter 382 382.085(b)

Description: Failure to have a current copy of the CARB Executive Order for this Stage II Vapor Recovery system.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
5C THSC Chapter 382 382.085(b)

Description: Failure to conduct the Annual Stage II Vapor Recovery testing that was due by February 12, 2005.

Effective Date: 08/27/2011

ADMINORDER 2011-0144-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)
30 TAC Chapter 115, SubChapter C 115.246(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to maintain a copy of the Stage II records on-site and immediately available for review.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.245(2)
5C THSC Chapter 382 382.085(b)

Description: Failure to verify the proper operations of the Stage II equipment must be performed in accordance with the test procedures as found in the commission's Vapor Recovery Test Procedures Handbook (RG-399) not to exceed 12 months.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.51(c)

Description: Failure to provide records demonstrating compliance with the minimum upgrading requirements for existing USTs systems in regards to overflow prevention and control records. In accordance with the EIC A12.h.7 and A9c, all overflow protection records are to be provided within 48 business hours.

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.3467(a)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(A)(i)

Description: Failure to ensure that no common carrier shall deposit any regulated substance into a regulated underground storage tank (UST) system unless it is observed that the owner or operator has a valid, current delivery certificate issued by the TCEQ covering that UST system.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)(A)(i)(III)

Description: Failure to conduct a successful Annual Line Leak Detector test for all line leak detectors.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)
30 TAC Chapter 334, SubChapter C 334.50(b)(2)

Description: Failure to conduct release detection for pressurized piping performed by either tightness testing every 12 months or by monthly monitoring in accordance with 30 TAC 334.50(b)(2)(A).

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(b)(1)(A)

Description: Failure to have a monthly method of release detection capable of detecting a release from any portion of the UST system which contains regulated substances.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)

Description: Failure to conduct monthly inventory control completely and accurately.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.42(i)

Description: Failure to insure that any overspill containers or catchment basins installed at any time, which are associated with a UST system must be inspected at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid tight. Any liquids or debris found in them during an inspection must be removed and properly disposed of within 72 hours of discovery.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(C)

Description: Failure to submit a new Self-Certification (certificate) within 30 days of the ownership change.

Classification: Major

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(4)(A)(vii)
30 TAC Chapter 334, SubChapter A 334.8(c)(5)(B)(ii)

Description: Failed to timely renew a previously issued UST delivery certificate.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(c)(1)
30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(iii)(I)

Description: Failed to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day.

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 | 01/07/2011 | (881300) |
| 2 | 01/09/2012 | (976647) |
| 3 | 04/24/2012 | (996193) |

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

Date: 01/05/2012 (976647) CN600744262

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.51(c)

Description: Failure to provide records demonstrating compliance with the minimum upgrading requirements for existing USTs systems in regards to overflow prevention and control records. In accordance with the EIC A12.h.7 and A9c, all overflow protection records are to be provided within 48 business hours.

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
B F BEVERAGE, INC DBA
NRH SHELL;
RN101550713**

**§
§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-0979-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. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and revocation of the facility's fuel delivery certificate. The respondent made the subject of this Order is B F Beverage, Inc dba NRH Shell ("Respondent").

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(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 6551 Grapevine Highway in North Richland Hills, Tarrant County, Texas (Facility ID No. 53688) (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 an investigation conducted on March 28, 2012, a TCEQ Dallas/Fort Worth Regional Office investigator documented that Respondent:
 - a. Failed to renew a 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, 2011;
 - b. Failed to make available to a common carrier a valid, current delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, Respondent received 12 fuel deliveries without a delivery certificate; and
 - c. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons.
3. Respondent received notice of the violations on or about May 2, 2012.

4. The Executive Director recognizes that as of March 31, 2012, Respondent implemented the following corrective measures at the Facility:
 - a. Submitted a properly completed UST registration and self-certification form and obtained a TCEQ fuel delivery certificate; and
 - b. Implemented a release detection method for all USTs including reconciliation of inventory control records.
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 B F Beverage, Inc dba NRH Shell" (the "EDPRP") in the TCEQ Chief Clerk's office on October 12, 2012.
6. By letter dated October 12, 2012, sent to Respondent's last known address via certified mail, return receipt requested, 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 16, 2012, 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 ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2.a., Respondent failed to renew a delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to make available to a common carrier a valid, current delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(i) and TEX. WATER CODE § 26.3467(a).
4. As evidenced by Finding of Fact No. 2.c., Respondent failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), and failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals the sum of 1.0 percent of the total substance flow-through for the month plus 130 gallons, in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and (d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1).
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(b)(1).
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 twenty-one thousand two hundred eighty dollars (\$21,280.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
10. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke the Facility's UST fuel delivery certificate if the Commission finds that good cause exists.
11. Good cause for revocation of the Facility's UST fuel delivery certificate exists as justified by Findings of Fact Nos. 2 and 5 through 7, and Conclusions of Law Nos. 2 through 6.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of twenty-one thousand two hundred eighty dollars (\$21,280.00) 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: B F Beverage, Inc dba NRH Shell; Docket No. 2012-0979-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. The Facility's UST fuel delivery certificate is revoked immediately upon the effective date of this Order. Respondent may submit an application for a new fuel delivery certificate only after Respondent has complied with all of the requirements of this Order, including payment of the administrative penalty.

4. 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.
5. Within 10 days after the effective date of this Order, Respondent shall send the Facility's 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 written certification to demonstrate compliance with Ordering Provisions Nos. 4 and 5. The certification 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:

Sam Barrett, Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Dr.
Fort Worth TX 76118-6951

7. Upon obtaining a new fuel delivery certificate, Respondent shall post the fuel delivery certificate in a location at the Facility where the delivery certificate is clearly visible at all times, in accordance with 30 TEX. ADMIN. CODE § 334.8(c)(5)(A)(iii).
8. All relief not expressly granted in this Order is denied.
9. 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.

10. 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.
11. 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.
12. 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.
13. 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.
14. 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 JENNIFER COOK

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Jennifer Cook. 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 B F Beverage, Inc. dba NRH Shell" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on October 12, 2012.

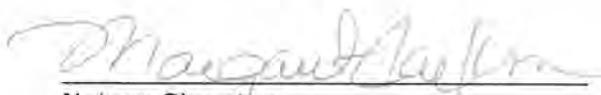
The EDPRP was mailed to Respondent's last known address on October 12, 2012, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on October 16, 2012, as evidenced by the signature on the card.



Jennifer Cook, Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jennifer Cook, 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 3 day of January, A.D. 2012.



Notary Signature

