

Executive Summary – Enforcement Matter – Case No. 44754
PRUSKI SERVICE CENTER, INC. dba Pruskis
RN101761971
Docket No. 2012-1621-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Pruskis, 803 10th Street, Floresville, Wilson County

Type of Operation:

Convenience store with retail sales of gasoline

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 11, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,850

Amount Deferred for Expedited Settlement: \$2,570

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$10,280

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average by Default

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

**Executive Summary – Enforcement Matter – Case No. 44754
PRUSKI SERVICE CENTER, INC. dba Pruskis
RN101761971
Docket No. 2012-1621-PST-E**

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 22, 2011
Date(s) of NOE(s): July 31, 2012

Violation Information

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, the statistical inventory reconciliation ("SIR") results for September 2011 indicated a suspected release that was not reported [30 TEX. ADMIN. CODE § 334.72].
2. Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, the SIR results for September 2011 indicated a suspected release that was not investigated [30 TEX. ADMIN. CODE § 334.74].
3. Failed to maintain underground storage tank ("UST") records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. Investigated the suspected release and installed a new automatic tank gauge system on November 10, 2011; and
- b. Began maintaining all UST records at the Facility on September 24, 2012.

Technical Requirements:

The Order will require Respondent to:

- a. Immediately, establish and implement a process for investigating and reporting a suspected release; and
- b. Within 30 days, submit written certification demonstrating compliance with Ordering Provision a.

**Executive Summary – Enforcement Matter – Case No. 44754
PRUSKI SERVICE CENTER, INC. dba Pruskis
RN101761971
Docket No. 2012-1621-PST-E**

Litigation Information

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

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Rajesh Acharya, Enforcement Division,
Enforcement Team 4, MC 149, (512) 239-0577; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Kenneth Pruski, Owner, Pruskis, P.O. Box 463, Floresville, Texas 78114
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	13-Aug-2012	Screening	13-Aug-2012	EPA Due	
	PCW	15-Aug-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	PRUSKI SERVICE CENTER, INC. dba Pruskis				
Reg. Ent. Ref. No.	RN101761971				
Facility/Site Region	4-San Antonio	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	44754	No. of Violations	3
Docket No.	2012-1621-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rajesh Acharya
		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** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

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** **\$2,250**

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

Total EB Amounts: \$129
 Approx. Cost of Compliance: \$5,600
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.8%** **Adjustment** **\$100**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with violation no. 1.

Final Penalty Amount **\$12,850**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,850**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,570**

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 **\$10,280**

Screening Date 13-Aug-2012

Docket No. 2012-1621-PST-E

PCW

Respondent PRUSKI SERVICE CENTER, INC. dba Pruskis

Policy Revision 3 (September 2011)

Case ID No. 44754

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101761971

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

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

>> 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

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 13-Aug-2012

Docket No. 2012-1621-PST-E

PCW

Respondent PRUSKI SERVICE CENTER, INC. dba Pruskis

Policy Revision 3 (September 2011)

Case ID No. 44754

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101761971

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 334.72

Violation Description Failed to report a suspected release to the TCEQ within 24 hours of discovery. Specifically, the statistical inventory reconciliation ("SIR") results for September 2011 indicated a suspected release that was not reported.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (0.0%).

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (15.0%). Matrix Notes: 100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 1

Table for frequency: daily, weekly, monthly, quarterly, semiannual, annual, single event. Single event is marked with an 'x'.

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

Table for Good Faith Efforts: Reduction (0.0%), Before NOV, NOV to EDPRP/Settlement Offer. Categories: Extraordinary, Ordinary, N/A.

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 \$100

Violation Final Penalty Total \$3,779

This violation Final Assessed Penalty (adjusted for limits) \$3,779

Economic Benefit Worksheet

Respondent PRUSKI SERVICE CENTER, INC. dba Pruskis
Case ID No. 44754
Reg. Ent. Reference No. RN101761971
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	30-Sep-2012	3-Oct-2012	0.00	\$0	\$100	\$100
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to report a suspected release. Date Required is the date of the suspected release.
Final Date is the date the report was due.

Approx. Cost of Compliance \$100

TOTAL \$100

Screening Date 13-Aug-2012

Docket No. 2012-1621-PST-E

PCW

Respondent PRUSKI SERVICE CENTER, INC. dba Pruskis

Policy Revision 3 (September 2011)

Case ID No. 44754

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101761971

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.74

Violation Description Failed to investigate a suspected release of regulated substance within 30 days of discovery. Specifically, the SIR results for September 2011 indicated a suspected release that was not investigated.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				30.0%
Potential	x			

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
				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 \$17,500

\$7,500

Violation Events

Number of Violation Events 1 10 Number of violation days

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

Violation Base Penalty \$7,500

One monthly event is recommended from the release investigation due date of October 30, 2011 to the November 10, 2011 compliance date.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes The Respondent came into compliance on November 10, 2011, before the Notice of Enforcement ("NOE") dated July 31, 2012.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$5,669

This violation Final Assessed Penalty (adjusted for limits) \$5,669

Economic Benefit Worksheet

Respondent PRUSKI SERVICE CENTER, INC. dba Pruskis
Case ID No. 44754
Reg. Ent. Reference No. RN101761971
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)	\$5,000	30-Oct-2011	10-Nov-2011	0.03	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to investigate a suspected release. Date Required is the date the release investigation was due. Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$8

Screening Date 13-Aug-2012

Docket No. 2012-1621-PST-E

PCW

Respondent PRUSKI SERVICE CENTER, INC. dba Pruskis

Policy Revision 3 (September 2011)

Case ID No. 44754

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101761971

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Acharya

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.10(b)

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

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			15.0%

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

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 13 Number of violation days

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

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$375

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

Notes The Respondent came into compliance on September 24, 2012, after the NOE dated July 31, 2012.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$3,401

This violation Final Assessed Penalty (adjusted for limits) \$3,401

Economic Benefit Worksheet

Respondent PRUSKI SERVICE CENTER, INC. dba Pruskis
Case ID No. 44754
Reg. Ent. Reference No. RN101761971
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	\$500	22-Nov-2011	24-Sep-2012	0.84	\$21	n/a	\$21
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

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

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$21

Compliance History Report

Customer/Respondent/Owner-Operator: CN600950943 PRUSKI SERVICE CENTER, INC. Classification: AVERAGE Rating: 3.01

Regulated Entity: RN101761971 PRUSKIS Classification: AVERAGE Site Rating: 3.01
BY DEFAULT

ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 1869
REGISTRATION

Location: 803 10TH ST, FLORESVILLE, TX, 78114

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: August 13, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 13, 2007 to August 13, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Rajesh Acharya Phone: (512) 239-0577

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. If YES, when did the change(s) in owner or operator occur? N/A
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.
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 07/31/2012 (975315)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - 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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
PRUSKI SERVICE CENTER, INC.	§	
DBA PRUSKIS	§	
RN101761971	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-1621-PST-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding PRUSKI SERVICE CENTER, INC. dba Pruskis ("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 together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 803 10th Street in Floresville, Wilson County, Texas (the "Facility").
2. The Respondent's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
3. The Executive Director 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 August 5, 2012.
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 Twelve Thousand Eight Hundred Fifty Dollars (\$12,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Two Hundred Eighty

Dollars (\$10,280) of the administrative penalty and Two Thousand Five Hundred Seventy Dollars (\$2,570) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. Investigated the suspected release and installed a new automatic tank gauge system on November 10, 2011; and
 - b. Began maintaining all UST records at the Facility on September 24, 2012.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to report a suspected release to the TCEQ within 24 hours of discovery, in violation of 30 TEX. ADMIN. CODE § 334.72, as documented during an investigation conducted on November 22, 2011 and a record review conducted on July 31, 2012. Specifically, the statistical inventory reconciliation ("SIR") results for September 2011 indicated a suspected release that was not reported.
2. Failed to investigate a suspected release of regulated substance within 30 days of discovery, in violation of 30 TEX. ADMIN. CODE § 334.74, as documented during an investigation conducted on November 22, 2011 and a record review conducted on July

31, 2012. Specifically, the SIR results for September 2011 indicated a suspected release that was not investigated.

3. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 334.10(b), as documented during an investigation conducted on November 22, 2011 and a record review conducted on July 31, 2012.

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: PRUSKI SERVICE CENTER, INC. dba Pruskis, Docket No. 2012-1621-PST-E" to:

Financial Administration Division, Revenue Operations 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. Immediately upon the effective date of this Agreed Order, establish and implement a process for investigating and reporting a suspected release, in accordance with 30 TEX. ADMIN. CODE § 334.72; and
 - b. Within 30 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 No. 2.a. 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Dawkins
For the Executive Director

2/15/13
Date

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

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

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

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

Thomas D. Smeal
Signature

10/24/12
Date

Kenneth Pruski
Name (Printed or typed)
Authorized Representative of
PRUSKI SERVICE CENTER, INC. dba Pruskis

Owner
Title

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