

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE NO. 41702  
Global New Millennium Partners, Ltd.  
RN102827649  
Docket No. 2011-0816-PST-E

**Order Type:**

Default Order

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

24652 Highway 124, Hamshire, Jefferson County

**Type of Operation:**

property with three inactive underground storage tanks

**Other Significant Matters:**

Additional Pending Enforcement Actions:

Past-Due Penalties: None

Past-Due Fees: None

Other: None

Interested Third-Parties: None

**Texas Register Publication Date:** March 29, 2013

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$7,500

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$7,500

**Compliance History Classifications:**

Person/CN – Average

Site/RN – Average

**Major Source:** No

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** September 2002

**Investigation Information**

**Complaint Date(s):** N/A

**Date(s) of Investigation:** April 13, 2011

**Date(s) of NOV(s):** April 15, 2010

**Date(s) of NOE(s):** May 13, 2011

**Violation Information**

1. Failed to provide a release detection method capable of detecting a release from any portion of the UST system; failed to ensure that any residue from stored regulated substances which remained in the system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity; and failed to maintain all piping, pumps, manways and ancillary equipment in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering or vandalism by an unauthorized person [TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), and 334.54(b)(2), (c)(2) and (d)(2)].
2. Failed to notify the agency of any change or additional information regarding the USTs within 30 days from the occurrence of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)].

**Corrective Actions/Technical Requirements**

**Technical Requirements:**

1. Within 180 days, permanently remove the UST system from service, which includes but is not limited to the following actions:
  - i. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities; and
  - ii. Employing a Licensed Underground Storage Tank Contractor to perform all removal activities, including but not limited to:
    - A. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;
    - B. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
    - C. Handling, transporting, and properly disposing of the empty USTs, of the regulated substances removed from the UST system, and of any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
    - D. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and compliance with all applicable corrective action requirements.
2. Within 195 days, submit an amended registration to reflect the operational status of the UST system.
3. Within 210 days, submit written certification of compliance with Technical Requirements Nos. 1 and 2.

**Litigation Information**

**Date Petition(s) Filed:** September 13, 2012; January 11, 2013  
**Date Green Card(s) Signed:** Unclaimed; January 14, 2013  
**Date Answer(s) Filed:** N/A

**Contact Information**

**TCEQ Attorneys:** Jacquelyn Boutwell, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Eli Martinez, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Michael Meyer, Enforcement Division, (512) 239-4492

**TCEQ Regional Contact:** Sarah Kirksey, Beaumont Regional Office, (409) 898-3838

**Respondent:** Mohammed Ali Dhanani, Governing Person, Global New Millennium, Inc, General Partner, Global New Millennium Partners, Ltd., 4415 Highway 6, Sugar Land, Texas 77478

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	23-May-2011	<b>Screening</b>	24-May-2011	<b>EPA Due</b>	
	<b>PCW</b>	13-Sep-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	GLOBAL NEW MILLENNIUM PARTNERS, LTD.	
<b>Reg. Ent. Ref. No.</b>	RN102827649	
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b> Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	41702	<b>No. of Violations</b>	2
<b>Docket No.</b>	2011-0816-PST-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Michael Meyer
		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$6,000
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	25.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$1,500
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Notes: Enhancement for one NOV with same or similar violations and one 1660 order with a denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$2,748	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$20,098	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$7,500
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	\$7,500
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$7,500
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral not offered for non-expedited settlement.

<b>PAYABLE PENALTY</b>	\$7,500
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**Screening Date** 24-May-2011

**Docket No.** 2011-0816-PST-E

**PCW**

**Respondent** GLOBAL NEW MILLENNIUM PARTNERS, LTD.

Policy Revision 2 (September 2002)

**Case ID No.** 41702

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN102827649

**Media [Statute]** Petroleum Storage Tank

**Enf. Coordinator** Michael Meyer

### 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> )	1	5%
	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)** 25%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

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

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

Enhancement for one NOV with same or similar violations and one 1660 order with a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 25%

Screening Date 24-May-2011

Docket No. 2011-0816-PST-E

PCW

Respondent GLOBAL NEW MILLENNIUM PARTNERS, LTD.

Policy Revision 2 (September 2002)

Case ID No. 41702

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102827649

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Michael Meyer

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 334.50(a)(1)(A), 334.54(b)(2), (c)(2) and (d)(2) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to provide a release detection method capable of detecting a release from any portion of the underground storage tank ("UST") system which has not been emptied of all regulated substances. Failed to ensure that any residue from stored regulated substances which remained in the system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity. Also, failed to maintain all piping, pumps, manways and ancillary equipment in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering or vandalism by an unauthorized person. Specifically, the middle and westerly USTs contained 4.5 and 30 inches of water/product mixture, respectively. In addition, the middle and most westerly fill ports were not locked.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

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

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 41 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two monthly events are recommended based on documentation of the violation during the April 13, 2011 investigation to the May 24, 2011 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$646

Violation Final Penalty Total \$6,250

This violation Final Assessed Penalty (adjusted for limits) \$6,250

# Economic Benefit Worksheet

**Respondent** GLOBAL NEW MILLENNIUM PARTNERS, LTD.  
**Case ID No.** 41702  
**Reg. Ent. Reference No.** RN102827649  
**Media Violation No.** 1  
 Petroleum Storage Tank

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description**   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)	\$18,000	13-Apr-2011	31-Dec-2011	0.72	\$646	n/a	\$646

**Notes for DELAYED costs**  
 Estimated cost to remove the three USTs with a combined capacity of 18,000 gallons at \$1 dollar per gallon. The Date Required is the investigation date and 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** \$646

**Screening Date** 24-May-2011 **Docket No.** 2011-0816-PST-E **PCW**  
**Respondent** GLOBAL NEW MILLENNIUM PARTNERS, LTD. *Policy Revision 2 (September 2002)*  
**Case ID No.** 41702 *PCW Revision October 30, 2008*  
**Reg. Ent. Reference No.** RN102827649  
**Media [Statute]** Petroleum Storage Tank  
**Enf. Coordinator** Michael Meyer

**Violation Number**

**Rule Cite(s)**

**Violation Description**

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text" value="x"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="10%"/>

**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" value="x"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input type="text" value="x"/>	(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** GLOBAL NEW MILLENNIUM PARTNERS, LTD.  
**Case ID No.** 41702  
**Reg. Ent. Reference No.** RN102827649  
**Media Violation No.** Petroleum Storage Tank  
 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)	\$100	13-Apr-2011	31-Dec-2011	0.72	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to submit an amended UST registration. The Date Required is the investigation date and 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** \$4

# Compliance History

Customer/Respondent/Owner-Operator: CN603638560 Global New Millennium Partners, Ltd. Classification: AVERAGE Rating: 22.38  
Regulated Entity: RN102827649 LONE STAR SUPERETTE Classification: AVERAGE Site Rating: 41.75  
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 60115  
Location: 24652 HIGHWAY 124, HAMSHIRE, TX, 77622  
TCEQ Region: REGION 10 - BEAUMONT  
Date Compliance History Prepared: July 11, 2011  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: July 11, 2006 to July 11, 2011  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Michael Meyer Phone: 512.239.4492

## 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? Global New Millennium Partners, Ltd.
4. If Yes, who was/were the prior owner(s)/operator(s)? Qusra Corporation
5. When did the change(s) in owner or operator occur? 11/19/2008
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:** 03/08/2008

**ADMINORDER 2006-1769-PST-E**

Classification: Moderate

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

Description: Failure to verify proper operation of the Stage II equipment at least once every 12 months, and failure to verify Vapor Space Manifolding and Dynamic Pressure Performance at least once every 36 months.

Classification: Minor

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

Description: Failure to provide a properly worded insurance policy for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Classification: Moderate

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

Description: Failure to monitor UST systems for releases at least once per month and Failure to reconcile inventory control records on a monthly basis with sufficient accuracy to detect a release which equals or exceeds the sum of 1% of the flow through plus 130 gallons.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)  
30 TAC Chapter 115, SubChapter C 115.242(9)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to operate Stage II system in accordance with the CARB Executive Order. Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 08/29/2006 (485515)  
2 04/15/2010 (798984)  
3 05/06/2011 (914655)  
4 05/13/2011 (914676)  
5 04/27/2011 (914678)

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

**Date:** 04/15/2010

**(798984)**

**CN603638560**

Self Report? NO

Classification: Moderate

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

Description: Failure to verify proper operation of the Stage II equipment at least once every 12 months, and failure to verify Vapor Space Manifolding and Dynamic Pressure Performance at least once every 36 months.

On 07/06/2006, a failing full system test was conducted on the Stage II system.

Self Report? NO

Classification: Minor

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

Description: Failure to provide a properly worded insurance policy for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.

Self Report?	NO	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.3475(a) 30 TAC Chapter 334, SubChapter C 334.50(a)(1)(A) 30 TAC Chapter 334, SubChapter C 334.50(d)(1)(B)(ii)		
Description:	Failure to monitor UST systems for releases at least once per month and Failure to reconcile inventory control records on a monthly basis with sufficient accuracy to detect a release which equals or exceeds the sum of 1% of the flow through plus 130 gallons.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.242(3) 30 TAC Chapter 115, SubChapter C 115.242(9) 5C THC Chapter 382, SubChapter D 382.085(b)		
Description:	Failure to operate Stage II system in accordance with the CARB Executive Order. Failure to post operating instructions conspicuously on the front of each dispenser equipped with a Stage II system.		

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
GLOBAL NEW MILLENNIUM  
PARTNERS, LTD.;  
RN102827649**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER**

**DOCKET NO. 2011-0816-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 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 Global New Millennium Partners, Ltd. ("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 real property located at 24652 Highway 124 in Hamshire, Jefferson County, Texas (Facility ID No. 60115) (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 April 13, 2011, a TCEQ Beaumont Regional Office investigator documented that Respondent:
  - a. Failed to provide a release detection method capable of detecting a release from any portion of the UST system which has not been emptied of all regulated substances; failed to ensure that any residue from stored regulated substances which remained in the system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity; and failed to maintain all piping, pumps, manways and ancillary equipment in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering or vandalism by an unauthorized person. Specifically, the middle and westerly USTs contained 4.5 and 30 inches of water/product mixture, respectively, and, the middle and most westerly fill ports were not locked; and
  - b. Failed to notify the agency of any change or additional information regarding the USTs within 30 days from the occurrence of the change or addition. Specifically, the registration was not updated to reflect the correct ownership and current operational status of the UST system.
3. Respondent received notice of the violations on or about May 18, 2011.

4. 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 Global New Millennium Partners, Ltd." (the "EDPRP") in the TCEQ Chief Clerk's office on September 13, 2012.
5. The EDPRP was mailed to Respondent's last known address on September 13, 2012, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."
6. The Executive Director re-filed the EDPRP in the TCEQ Chief Clerk's office on January 11, 2013.
7. By letter dated January 11, 2013, 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 January 14, 2013, as evidenced by the signature on the card.
8. 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 provide a release detection method capable of detecting a release from any portion of the UST system which has not been emptied of all regulated substances; failed to ensure that any residue from stored regulated substances which remained in the system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity; and failed to maintain all piping, pumps, manways and ancillary equipment in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering or vandalism by an unauthorized person, in violation of TEX. WATER CODE § 26.3475(d) and 30 TEX. ADMIN. CODE §§ 334.50(a)(1)(A), and 334.54(b)(2), (c)(2) and (d)(2).
3. As evidenced by Finding of Fact No. 2.b., Respondent failed to notify the agency of any change or additional information regarding the USTs within 30 days from the occurrence of the change or addition, in violation of 30 TEX. ADMIN. CODE § 334.7(d)(3).
4. As evidenced by Findings of Fact Nos. 6 and 7, 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(c)(2).
5. As evidenced by Finding of Fact No. 8, 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.

6. 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.
7. An administrative penalty in the amount of seven thousand five hundred dollars (\$7,500.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. 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 seven thousand five hundred dollars (\$7,500.00) 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: Global New Millennium Partners, Ltd.; Docket No. 2011-0816-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 180 days after the effective date of this Order, Respondent shall permanently remove the UST system from service in accordance with 30 TEX. ADMIN. CODE § 334.55, which includes but is not limited to the following actions:
    - i. Providing a Construction Notification to the TCEQ at least 30-days prior to any removal activities; and
    - ii. Employing a Licensed Underground Storage Tank Contractor to perform all removal activities, including but not limited to:
      - A. Removing the USTs from the ground, abandoning the USTs in-place, or conducting a permanent change-in-service;

- B. Emptying the USTs of all regulated substances and accumulated sludges or residues and purging the USTs of all residual vapors;
  - C. Handling, transporting, and properly disposing of the empty USTs, of the regulated substances removed from the UST system, and of any contaminated soils, backfill material, groundwater, wash water or other similar materials removed from the UST system or Facility; and
  - D. Determining whether or not there has been a release of regulated substance from the UST system, performance of a comprehensive site assessment, reporting confirmed or suspected releases to the TCEQ, preparing a detailed written record of the release determination, and compliance with all applicable corrective action requirements.
- b. Within 195 days after the effective date of this Order, Respondent shall submit an amended registration to reflect the 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 129  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 210 days after the effective date of this Order, Respondent shall submit written certification to demonstrate compliance with Ordering Provisions Nos. 3.a. through 3.b. 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:

Sarah Kirksey, Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, TX 77703-1830

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.
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

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For the Commission

**AFFIDAVIT OF JACQUELYN BOUTWELL**

**STATE OF TEXAS**

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§  
§

**COUNTY OF TRAVIS**

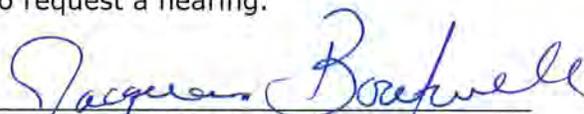
"My name is Jacquelyn Boutwell. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 Global New Millennium Partners, Ltd." (the "EDPRP") was filed in the TCEQ Chief Clerk's office on September 13, 2012.

The EDPRP was mailed to Respondent's last known address on September 13, 2012, via certified mail, return receipt requested, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed."

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 Global New Millennium Partners, Ltd." (the "EDPRP") was re-filed in the TCEQ Chief Clerk's office on January 11, 2013. According to the return receipt "green card," Respondent received notice of the EDPRP on January 14, 2013 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.

  
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Jacquelyn Boutwell, Staff Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Jacquelyn Boutwell, 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 13<sup>th</sup> day of March, A.D. 2013.



  
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Notary Signature