

Executive Summary – Enforcement Matter – Case No. 45647
Overseas Venture LLC
RN101913606
Docket No. 2012-2487-PST-E

Order Type:

Default Order

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

7183 US Highway 59 North, Goodrich, Polk County

Type of Operation:

convenience store with retail sales of gasoline

Other Significant Matters:

| | |
|---|------|
| Additional Pending Enforcement Actions: | None |
| Past-Due Penalties: | None |
| Past-Due Fees: | None |
| Other: | None |
| Interested Third-Parties: | None |

Texas Register Publication Date: June 21, 2013

Comments Received: None

Penalty Information

Total Penalty Assessed: \$41,484

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$41,484

Compliance History Classifications:

Person/CN –not applicable
Site/RN – not applicable

Major Source: Yes

Statutory Limit Adjustment: None

Applicable Penalty Policy: September 2002 (PCW 1); September 2011 (PCW 2)

Overseas Venture LLC
RN101913606
Docket No. 2012-2487-PST-E

Investigation Information

Complaint Date(s): N/A
Date(s) of Investigation: April 27, 2012
Date(s) of NOV(s): N/A
Date(s) of NOE(s): June 6, 2012

Violation Information

1. Failed to ensure that the UST system release detection equipment was operated and maintained in good operating condition [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.48(a) and (e)].
2. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 334.10(b)].
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) [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent no longer owns or operates the Facility as of June 30, 2012.

Technical Requirements:

N/A

Litigation Information

Date Petition(s) Filed: April 12, 2013
Date Green Card(s) Signed: April 27, 2013
Date Answer(s) Filed: N/A

Contact Information

TCEQ Attorneys: Phillip M. Goodwin, P.G., Litigation Division, (512) 239-3400
Lena Roberts, Litigation Division, (512) 239-3400
Eli Martinez, Public Interest Counsel, (512) 239-6363

TCEQ Enforcement Coordinator: Elvia Maske, Enforcement Division, (512) 339-2929

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

Respondent: Obaid Uddin, Director, Overseas Venture LLC, 24133 US Highway 59 North, Porter, Texas 77365-6186

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|
| DATES | Assigned | 11-Jun-2012 | | | |
| | PCW | 1-Apr-2013 | Screening | 18-Jun-2012 | EPA Due |

RESPONDENT/FACILITY INFORMATION

| | | | | |
|-----------------------------|----------------------|---------------------------|-------|--|
| Respondent | Overseas Venture LLC | | | |
| Reg. Ent. Ref. No. | RN101913606 | | | |
| Facility/Site Region | 10-Beaumont | Major/Minor Source | Major | |

CASE INFORMATION

| | | | |
|--|------------------------|------------------------------|--------------------|
| Enf./Case ID No. | 45647 | No. of Violations | 1 |
| Docket No. | 2012-2487-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Elvia Maske |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$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 | 50.0% | Enhancement | Subtotals 2, 3, & 7 | \$7,500 |
| Notes | Enhancement for two orders without denial of liability. | | | |
| 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 | \$6 | *Capped at the Total EB \$ Amount | | |
| Approx. Cost of Compliance | \$550 | | | |

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$22,500

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

| | |
|-------|--------------------------------------|
| Notes | |
| | Final Penalty Amount \$22,500 |

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$22,500

DEFERRAL **Adjustment** \$0

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. |
|-------|--|

PAYABLE PENALTY **\$22,500**

Screening Date 18-Jun-2012

Docket No. 2012-2487-PST-E

Respondent Overseas Venture LLC

Policy Revision 2 (September 2002)

Case ID No. 45647

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101913606

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

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 | 2 | 50% |
| 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) 50%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two orders without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

| | | | | |
|--------------------------------|------------------------|-------------------|-----------------|---|
| Screening Date | 18-Jun-2012 | Docket No. | 2012-2487-PST-E | PCW |
| Respondent | Overseas Venture LLC | | | <i>Policy Revision 2 (September 2002)</i> |
| Case ID No. | 45647 | | | <i>PCW Revision October 30, 2008</i> |
| Reg. Ent. Reference No. | RN101913606 | | | |
| Media [Statute] | Petroleum Storage Tank | | | |
| Enf. Coordinator | Elvia Maske | | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

| | | | | |
|-----------|----------------|--------------------------------|----------------------|---|
| OR | Harm | | | |
| | Release | Major | Moderate | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| | Potential | <input type="text" value="x"/> | <input type="text"/> | <input type="text"/> |
| | | | | Percent <input type="text" value="50%"/> |

>> **Programmatic Matrix**

| | | | | | |
|--|----------------------|----------------------|----------------------|----------------------|--|
| | Falsification | Major | Moderate | Minor | |
| | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | Percent <input type="text" value="0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

| | | |
|--------------------------------|--------------|--------------------------------|
| <i>mark only one with an x</i> | daily | <input type="text"/> |
| | weekly | <input type="text"/> |
| | monthly | <input type="text" value="x"/> |
| | quarterly | <input type="text"/> |
| | semiannual | <input type="text"/> |
| | annual | <input type="text"/> |
| | single event | <input type="text"/> |

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

| | | | |
|---------------|--------------------------------|----------------------|-------------------------------|
| | | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Ordinary | <input type="text"/> | <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 Overseas Venture LLC
Case ID No. 45647
Reg. Ent. Reference No. RN101913606
Media Violation No. 1
Media 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) | \$550 | 2-Dec-2011 | 22-Feb-2012 | 0.22 | \$6 | n/a | \$6 |

Notes for DELAYED costs
 Actual costs to repair two leak detectors based on an invoice submitted on behalf of the Respondent. The date required is the date the ownership changed, and the final date is the date the two leak detectors were repaired and retested successfully.

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 \$550

TOTAL \$6



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

| | | | |
|--------------|------------------|-------------|--|
| DATES | Assigned | 11-Jun-2012 | |
| | PCW | 1-Apr-2013 | |
| | Screening | 18-Jun-2012 | |
| | EPA Due | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|----------------------|---------------------------|-------|
| Respondent | Overseas Venture LLC | | |
| Reg. Ent. Ref. No. | RN101913606 | | |
| Facility/Site Region | 10-Beaumont | Major/Minor Source | Major |

CASE INFORMATION

| | | | |
|--|------------------------|------------------------------|--------------------|
| Enf./Case ID No. | 45647 | No. of Violations | 2 |
| Docket No. | 2012-2487-PST-E | Order Type | 1660 |
| Media Program(s) | Petroleum Storage Tank | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Elvia Maske |
| | | EC's Team | Enforcement Team 7 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$25,000 |

Penalty Calculation Section

| | | |
|---|-------------------|----------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$11,250 |
|---|-------------------|----------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

| | | | | | |
|--|---|-----------------------------------|--------------------------------|-------------------|-----|
| Compliance History | 50.0% | Enhancement | Subtotals 2, 3, & 7 | \$5,625 | |
| Notes | Enhancement for two orders without denial of liability. | | | | |
| 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 | \$2,109 | *Capped at the Total EB \$ Amount | | | |
| Approx. Cost of Compliance | \$2,000 | | | | |

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$16,875 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|-------|-------------------|---------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | 12.5% | Adjustment | \$2,109 |
|---|-------|-------------------|---------|

Reduces or enhances the Final Subtotal by the indicated percentage.

| | | | |
|--------------|---|----------|--|
| Notes | Recommended enhancement to capture the avoided cost of compliance associated with violation nos. 1 and 2. | | |
| | Final Penalty Amount | \$18,984 | |

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$18,984 |
|-----------------------------------|-------------------------------|----------|

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

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. | | |
|--------------|--|--|--|

| | |
|------------------------|----------|
| PAYABLE PENALTY | \$18,984 |
|------------------------|----------|

Screening Date 18-Jun-2012

Docket No. 2012-2487-PST-E

PCW

Respondent Overseas Venture LLC

Policy Revision 3 (September 2011)

Case ID No. 45647

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101913606

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Elvia Maske

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 | 2 | 50% |
| 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) 50%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two orders without denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 50%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 50%

| | | | | |
|--------------------------------|------------------------|-------------------|-----------------|---|
| Screening Date | 18-Jun-2012 | Docket No. | 2012-2487-PST-E | PCW |
| Respondent | Overseas Venture LLC | | | <i>Policy Revision 3 (September 2011)</i> |
| Case ID No. | 45647 | | | <i>PCW Revision August 3, 2011</i> |
| Reg. Ent. Reference No. | RN101913606 | | | |
| Media [Statute] | Petroleum Storage Tank | | | |
| Enf. Coordinator | Elvia Maske | | | |

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

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

| | | | | | |
|-----------|----------------|----------------------|----------------------|--|----------------------|
| OR | Harm | | | Percent <input type="text" value="0.0%"/> | |
| | Release | Major | Moderate | | Minor |
| | Actual | <input type="text"/> | <input type="text"/> | | <input type="text"/> |
| | Potential | <input type="text"/> | <input type="text"/> | | <input type="text"/> |

>> **Programmatic Matrix**

| | | | | | |
|--|----------------------|---|----------------------|----------------------|---|
| | Falsification | Major | Moderate | Minor | Percent <input type="text" value="15.0%"/> |
| | <input type="text"/> | <input checked="" type="text" value="X"/> | <input type="text"/> | <input type="text"/> | |

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 checked="" 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 checked="" 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 Overseas Venture LLC
Case ID No. 45647
Reg. Ent. Reference No. RN101913606
Media Violation No. 1
Media 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] | \$500 | 27-Apr-2012 | 30-Jun-2012 | 1.09 | \$27 | \$500 | \$527 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Estimated avoided cost to maintain UST records. The date required is the investigation date, and the final date is the date the ownership change.

Approx. Cost of Compliance \$500

TOTAL \$527

| | | | | |
|--------------------------------|------------------------|-------------------|-----------------|---|
| Screening Date | 18-Jun-2012 | Docket No. | 2012-2487-PST-E | PCW |
| Respondent | Overseas Venture LLC | | | <i>Policy Revision 3 (September 2011)</i> |
| Case ID No. | 45647 | | | <i>PCW Revision August 3, 2011</i> |
| Reg. Ent. Reference No. | RN101913606 | | | |
| Media [Statute] | Petroleum Storage Tank | | | |
| Enf. Coordinator | Elvia Maske | | | |

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="30.0%"/> |
| | Potential | <input type="text" value="x"/> | <input type="text"/> | <input type="text"/> | |

>> **Programmatic Matrix**

| | Falsification | Major | Moderate | Minor | Percent |
|--|----------------------|----------------------|----------------------|----------------------|-----------------------------------|
| | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0.0%"/> |

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" value="x"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

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 Overseas Venture LLC
Case ID No. 45647
Reg. Ent. Reference No. RN101913606
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) | | | | 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] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$1,500 | 27-Apr-2012 | 30-Jun-2012 | 1.09 | \$82 | \$1,500 | \$1,582 |

Notes for AVOIDED costs

Estimated cost to provide release detection for the UST system. The date required is the investigation date, and the final date is the date the ownership change.

Approx. Cost of Compliance

\$1,500

TOTAL

\$1,582

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603982745, RN106267891, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN604011692, Overseas Venture LLC **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101913606, Shop N Drive **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 01 - Gas Stations with convenience Stores and other Gas Stations

Location: 7183 US HWY 59 N GOODRICH, TX 77335, POLK COUNTY

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 57178

Compliance History Period: September 01, 2006 to August 31, 2011 **Rating Year:** 2011 **Rating Date:** 09/01/2011

Date Compliance History Report Prepared: October 16, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: June 14, 2007 to June 14, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Elvia Maske

Phone: (512) 239-0789

Site and Owner/Operator History:

- 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 for #2, who is the current owner/operator? Overseas Venture LLC, OWNER OPERATOR, 12/2/2011
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)?
SHEPHERD FOOD INVESTMENT, INC., OWNER, 8/3/2009 to 12/1/2011
RICKY INVESTMENTS INC., OPERATOR, 8/3/2009 to 12/1/2011
RICKY INVESTMENTS INC., OWNER OPERATOR, 7/25/2009 to 8/3/2009
Yaa Ali Corporation, OWNER, 4/1/1998 to 7/25/2009
Logics Enterprise, L.L.C., OPERATOR, 1/5/2007 to 7/25/2009
Kashmir Commerce Systems, LC, OPERATOR, 4/30/2001 to 1/5/2007
- 5) If YES, when did the change(s) in owner or operator occur? 12/2/2011

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 **Effective Date:** 08/09/2009 **ADMINORDER 2008-1544-PST-E (Findings Order)**

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)

Description: Failure to make all PST records available for the investigation upon request by agency personel.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)
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 notify the agency of any change or additional information regarding USTS within 30 days from the date of occurrence of the change or addition.

Classification: Moderate

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

Description: Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the UST.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)
30 TAC Chapter 334, SubChapter C 334.49(c)(4)

Description: Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

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: Failed to provide proper release detection by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release as small as the sum of 1% of the total substance flow-through for the month plus 130 gallons.

Classification: Moderate

Citation: 30 TAC Chapter 114, SubChapter H 114.316(g)
30 TAC Chapter 115, SubChapter C 115.226(1)
30 TAC Chapter 115, SubChapter C 115.226(2)
5C THSC Chapter 382 382.085(b)

Description: Failed to maintain copies or records of product transfer documents for a minimum of two years and make such copies or records available to representatives of the Commission.

2 Effective Date: 12/08/2011 ADMINORDER 2010-0881-PST-E (Findings Order)

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.10(b)
30 TAC Chapter 334, SubChapter C 334.48(g)

Description: Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel. Specifically, inventory control, release detection, cathodic protection testing, and inspection records of the sumps, manways, overspill containers or catchment basins were not available during the investigation.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.8(c)(5)(C)

Description: Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(1)(H)
30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failed to notify the agency of any changes in the type of release detection method being used for the USTs within 30 days of the occurrence of the change or addition. Specifically, three methods of release detection were registered for the USTs on August 26, 2009, and as of January 2010 only one method had been conducted.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter D 334.72

Description: Failed to report a suspected release to the agency within 24 hours of discovery. Specifically, the Respondent did not report a suspected release after receiving a failed evaluation from the statistical inventory reconciliation vendor for the month of January 2010.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter D 334.74

Description: Failed to immediately investigate a suspected release of a regulated substance. Specifically, the Respondent did not investigate a suspected release after receiving a failed evaluation from the SIR vender for the month of January 2010.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(d)
30 TAC Chapter 334, SubChapter C 334.49(a)(4)

Description: Failed to ensure that a corrosion protection system is provided to all underground metal components of a UST system which are designed or used to convey, contain, or store regulated substances. Specifically, the flex connectors in the transition sump were in direct contact with the backfill and the underground product lines were not protected against corrosion.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1 October 13, 2011 (958185)

Item 2 May 23, 2012 (994196)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

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
ENFORCEMENT ACTION
CONCERNING
OVERSEAS VENTURE LLC;
RN101913606**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

DEFAULT ORDER

DOCKET NO. 2012-2487-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. The respondent made the subject of this Order is Overseas Venture LLC ("Respondent").

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

FINDINGS OF FACT

1. Respondent owned and operated, 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 7183 US Highway 59 North in Goodrich, Polk County, Texas (Facility ID No. 57178) (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 27, 2012, a TCEQ Beaumont Regional Office investigator documented that Respondent:
 - a. Failed to ensure that the UST system release detection equipment was operated and maintained in good operating condition. Specifically, the unleaded and diesel line leak detector tests failed on May 31, 2011, and the leak detectors were non-operational until they were replaced on February 22, 2012;
 - b. Failed to maintain UST records and make them immediately available for inspection upon request by agency personnel; 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).
3. Respondent received notice of the violations on or about June 11, 2012.
4. The Executive Director recognizes that Respondent ceased owning and operating the Facility as of June 30, 2012.
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 Overseas Venture LLC" (the "EDPRP") in the TCEQ Chief Clerk's office on April 12, 2013.

6. By letter dated April 12, 2013, 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 April 27, 2013, 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 ensure that the UST system release detection equipment was operated and maintained in good operating condition, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.48(a) and (e).
3. As evidenced by Finding of Fact No. 2.b., Respondent 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).
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), in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE § 334.50(b)(1)(A).
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 forty-one thousand four hundred eighty-four dollars (\$41,484.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty in the amount of forty-one thousand four hundred eighty-four dollars (\$41,484.00) 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: Overseas Venture LLC; Docket No. 2012-2487-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. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondent.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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 PHILLIP M. GOODWIN

STATE OF TEXAS

§

COUNTY OF TRAVIS

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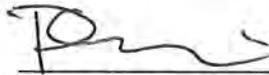
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"My name is Phillip M. Goodwin. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

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 Overseas Venture LLC" (the "EDPRP") was filed in the TCEQ Chief Clerk's office on April 12, 2013.

The EDPRP was mailed to Respondent's last known address on April 12, 2013, via certified mail, return receipt requested, postage prepaid. According to the return receipt "green card," Respondent received notice of the EDPRP on April 27, 2013, as evidenced by the signature on the card.

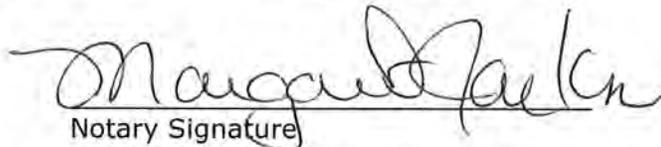
More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer and failed to request a hearing."



Phillip M. Goodwin, P.G., Staff Attorney
Office of Legal Services, Litigation Division
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Phillip M. Goodwin, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 28th day of May, A.D. 2013.



Notary Signature

