Executive Summary – Enforcement Matter – Case No. 46817
ANDREWS TRANSPORT, L.P.
RN102042579
Docket No. 2013-1044-PST-E

Order Type:
1660 Agreed Order
Findings Order Justification:
N/A
Media:
PST
Small Business:
No
Location(s) Where Violation(s) Occurred:
Andrews Transport 102 South Avenue G, Clifton, Bosque County
Type of Operation:
Common carrier
Other Significant Matters:
Additional Pending Enforcement Actions: No
Past-Due Penalties: No
Other: N/A
Interested Third-Parties: None
Texas Register Publication Date: September 20, 2013
Comments Received: No

Penalty Information

Total Penalty Assessed: $7,985
Amount Deferred for Expedited Settlement: $1,597
Amount Deferred for Financial Inability to Pay: $0
Total Paid to General Revenue: $6,388
Total Due to General Revenue: $0
Payment Plan: N/A
SEP Conditional Offset: $0
Name of SEP: N/A
Compliance History Classifications:
Person/CN - Satisfactory
Site/RN - N/A
Major Source: No
Statutory Limit Adjustment: N/A
Applicable Penalty Policy: September 2011

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Docket No. 2013-1044-PST-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: November 6, 2012
Date(s) of NOE(s): April 30, 2013

Violation Information

Failed to verify that the owner or operator of an underground storage ("UST") system possessed a valid, current TCEQ delivery certificate prior to depositing a regulated substance into the UST system. Specifically, Respondent made 16 fuel drops at the Facility between April 21, 2012 and October 27, 2012 [30 TEX. ADMIN. CODE § 334.5(b)(1)(A)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On May 8, 2013, Respondent established and implemented procedures designed to ensure that a facility possesses a valid, current TCEQ delivery certificate prior to depositing a regulated substance into the UST system.

Technical Requirements:

N/A

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: John Fennell, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2616; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456
TCEQ SEP Coordinator: N/A
Respondent: C. Mark Bliss, Senior Vice President, ANDREWS TRANSPORT, L.P., 5601 Denton Highway, Haltom City
Respondent's Attorney: N/A

Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011) — *PCW Revision August 3, 2011*

TCEQ

DATES						
Assigned	6-May-2013					
PCW	23-May-2013	**Screening**	7-May-2013	**EPA Due**		

RESPONDENT/FACILITY INFORMATION

Respondent	ANDREWS TRANSPORT, L.P.		
Reg. Ent. Ref. No.	RN102042579		
Facility/Site Region	4-Dallas/Fort Worth	**Major/Minor Source**	Minor

CASE INFORMATION

Enf./Case ID No.	46817	**No. of Violations**	1
Docket No.	2013-1044-PST-E	**Order Type**	1660
Media Program(s)	Petroleum Storage Tank	**Government/Non-Profit**	No
Multi-Media		**Enf. Coordinator**	John Fennell
		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*: **$8,750**

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*: **$875**

Economic Benefit — **0.0%** Enhancement* — *Subtotal 6*: **$0**

Total EB Amounts $110
Approx. Cost of Compliance $100

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal*: **$7,875**

OTHER FACTORS AS JUSTICE MAY REQUIRE — **1.4%** — *Adjustment*: **$110**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended enhancement to capture the avoided cost of compliance associated with the violation.

Final Penalty Amount: **$7,985**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty*: **$7,985**

DEFERRAL — **20.0%** Reduction — *Adjustment*: **-$1,597**

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: **$6,388**

Screening Date 7-May-2013 **Docket No.** 2013-1044-PST-E **PCW**

Respondent ANDREWS TRANSPORT, L.P.

Policy Revision 3 (September 2011)

Case ID No. 46817

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102042579

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Fennell

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 (*number of NOVs meeting criteria*)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	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 (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	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 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
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)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory 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 7-May-2013 **Docket No.** 2013-1044-PST-E **PCW**

Policy Revision 3 (September 2011)

Respondent ANDREWS TRANSPORT, L.P.

PCW Revision August 3, 2011

Case ID No. 46817

Reg. Ent. Reference No. RN102042579

Media [Statute] Petroleum Storage Tank

Enf. Coordinator John Fennell

Violation Number	1
Rule Cite(s)	30 Tex. Admin. Code § 334.5(b)(1)(A)
Violation Description	Failed to verify that the owner or operator of an underground storage tank ("UST") system possessed a valid, current TCEQ delivery certificate prior to depositing a regulated substance into the UST system. Specifically, the Respondent made 16 fuel drops at the Facility between April 21, 2012 and October 27, 2012.

Base Penalty $25,000

>> Environmental, Property and Human Health Matrix

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0.0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

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

Adjustment $23,750

$1,250

Violation Events

Number of Violation Events: 7 — 16 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $8,750

Seven monthly events are recommended based on documentation of the violation from April 21, 2012 through October 27, 2012.

Good Faith Efforts to Comply

10.0% Reduction — $875

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

Notes: The Respondent came into compliance on May 8, 2013, after the Notice of Enforcement dated April 30, 2013.

Violation Subtotal $7,875

Economic Benefit (EB) for this violation

Estimated EB Amount $110

Statutory Limit Test

Violation Final Penalty Total $7,985

This violation Final Assessed Penalty (adjusted for limits) $7,985

Economic Benefit Worksheet

Respondent ANDREWS TRANSPORT, L.P.
Case ID No. 46817
Reg. Ent. Reference No. RN102042579
Media Petroleum Storage Tank
Violation No. 1

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)				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)	$100	21-Apr-2012	8-May-2013	1.96	$10	$100	$110
Notes for AVOIDED costs	Estimated avoided cost to verify that the Facility had a valid, current fuel delivery cetificate. The date required is the date of the first fuel delivery. The final date is the date of compliance.						

Approx. Cost of Compliance $100

TOTAL $110

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 CN602985996, RN102042579, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN602985996, Andrews Transport, LP **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN102042579, ANDREWS TRANSPORT **Classification:** HIGH **Rating:** 0.00

Complexity Points: 2 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 5601 DENTON HWY HALTOM CITY, TX 76148-3754, TARRANT COUNTY

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 41887

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD004818936

LEAKING PETROLEUM STORAGE TANKS REMEDIATION ID NUMBER 116569

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: December 10, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 01, 2008 to August 31, 2013

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

Name: Enforcement Division **Phone:** (512) 239-2454

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? NO
3) If **YES** for #2, who is the current owner/operator? N/A
4) If **YES** for #2, 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

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

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

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

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

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 ANDREWS TRANSPORT, L.P. RN102042579	**§ § § § §**	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2013-1044-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 ANDREWS TRANSPORT, L.P. ("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, a common carrier located at 5601 Denton Highway, Haltom City, Tarrant County, Texas, delivered fuel to the underground storage tanks ("USTs") located at 102 South Avenue G in Clifton, Bosque County, Texas (the "Facility").

2. The Facility's 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 May 5, 2013.

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 Seven Thousand Nine Hundred Eighty-Five Dollars ($7,985) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Six Thousand Three Hundred

Eighty-Eight Dollars ($6,388) of the administrative penalty and One Thousand Five Hundred Ninety-Seven Dollars ($1,597) 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 on May 8, 2013, the Respondent established and implemented procedures designed to ensure that a facility possesses a valid, current TCEQ delivery certificate prior to depositing a regulated substance into the UST system.

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 a common carrier, the Respondent is alleged to have failed to verify that the owner or operator of a UST system possessed a valid, current TCEQ delivery certificate prior to depositing a regulated substance into the UST system, in violation of 30 TEX. ADMIN. CODE § 334.5(b)(1)(A), as documented during an investigation conducted on November 6, 2012. Specifically, the Respondent made 16 fuel drops at the Facility between April 21, 2012 and October 27, 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: ANDREWS TRANSPORT, L.P., Docket No. 2013-1044-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. 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 operations referenced in this Agreed Order.

3. 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.

4. 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.

5. 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

For the Executive Director

10/21/13
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.

Signature

August 1, 2013
Date

C. Mark Bliss
Name (Printed or typed)
Authorized Representative of
ANDREWS TRANSPORT, L.P.

Sr. Vice President
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.