

EXECUTIVE SUMMARY – ENFORCEMENT MATTER – CASE No. 49034  
CROSS-COUNTRY COMMERCIALS, INC. d/b/a Cross Country Drive-In  
RN106186844  
Docket No. 2014-1118-PST-E

**Order Type:**

Agreed Order

**Media:**

PST – Underground Storage Tanks (USTs)

**Small Business:**

Yes

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

16449 Highway 124, Beaumont, Jefferson County

**Type of Operation:**

convenience store with retail gasoline sales

**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:** August 28, 2015

**Comments Received:** None

**Penalty Information**

**Total Penalty Assessed:** \$12,188

**Total Paid to General Revenue:** \$358

**Total Due to General Revenue:** \$11,830

Payment Plan: 35 payments of \$338 each

**Compliance History Classifications:**

Person/CN – High

Site/RN – High

**Major Source:** Yes

**Statutory Limit Adjustment:** None

**Applicable Penalty Policy:** April 2014

Docket No. 2014-1118-PST-E

**Investigation Information**

**Complaint Date(s):** June 18, 2014  
Complaint Information: Alleged that the spill buckets were being dumped behind the store and in the parking lot.

**Date(s) of Investigation:** June 20, 2014

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

**Date(s) of NOE(s):** July 16, 2014

**Violation Information**

1. Failed to submit the Stage II vapor recovery system test results to the appropriate regional office within ten working days of the completion of the tests [TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(6)].
2. Failed to have the emergency shutoff valves securely anchored at the base of the dispenser [30 TEX. ADMIN. CODE § 334.45(c)(3)(A)].
3. Failed to monitor the interstice of the secondarily contained USTs [TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE §§ 334.45(d)(1)(E)(iii) and 334.50(d)(7)].

**Corrective Actions/Technical Requirements**

**Corrective Action(s) Completed:**

1. On June 20, 2014, submitted the passing Stage II vapor recovery test results to the Beaumont Regional Office;
2. By September 26, 2014, securely anchored the emergency shutoff valves under the dispenser numbered 3 and 4; and
3. By March 23, 2015, properly installed the probes in the USTs and dispenser sumps.

**Technical Requirements:**

N/A

**Litigation Information**

**Date Petition(s) Filed:** February 18, 2015

**Date Answer Filed:** N/A

**Settlement Date:** July 10, 2015

**Contact Information**

**TCEQ Attorneys:** Joel Cordero, Litigation Division, (512) 239-3400  
Lena Roberts, Litigation Division, (512) 239-3400  
Rudy Calderon, Public Interest Counsel, (512) 239-6363

**TCEQ Enforcement Coordinator:** Abigail Lindsey, Enforcement Division, (512) 239-2576

**TCEQ Regional Contact:** Marilyn Gates, Beaumont Regional Office, (409) 898-3838

**Respondent Contact:** Hussain A. Habib, Vice-President, CROSS-COUNTRY COMMERCIALS, INC., 6373 FM 1442, Orange, Texas 77630

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

|              |                 |             |                  |             |                |  |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| <b>DATES</b> | <b>Assigned</b> | 14-Jul-2014 | <b>Screening</b> | 24-Jul-2014 | <b>EPA Due</b> |  |
|              | <b>PCW</b>      | 20-May-2015 |                  |             |                |  |

## RESPONDENT/FACILITY INFORMATION

|                             |  |                           |       |  |  |
|-----------------------------|--|---------------------------|-------|--|--|
| <b>Respondent</b>           | CROSS-COUNTRY COMMERCIALS, INC. dba Cross Country Drive-In |                           |       |  |  |
| <b>Reg. Ent. Ref. No.</b>   | RN106186844  |                           |       |  |  |
| <b>Facility/Site Region</b> | 10-Beaumont  | <b>Major/Minor Source</b> | Major |  |  |

## CASE INFORMATION

|  |                        |                              |                    |
|--|------------------------|------------------------------|--------------------|
| <b>Enf./Case ID No.</b>                | 49034                  | <b>No. of Violations</b>     | 3                  |
| <b>Docket No.</b>                      | 2014-1118-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>      | Abigail Lindsey    |
|  |                        | <b>EC's Team</b>             | Enforcement Team 6 |
| <b>Admin. Penalty \$ Limit Minimum</b> | \$0                    | <b>Maximum</b>               | \$25,000           |

## Penalty Calculation Section

|   |                   |          |
|---|-------------------|----------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$15,000 |
|---|-------------------|----------|

## 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>                            | -10.0%   | Reduction                         | <b>Subtotals 2, 3, &amp; 7</b> | -\$1,500          |
| Notes  | Reduction for high performer classification.           |                                   |                                |                   |
| <b>Culpability</b>                                   | No   | 0.0%                              | Enhancement                    | <b>Subtotal 4</b> |
| Notes  | The Respondent does not meet the culpability criteria. |                                   |                                | \$0               |
| <b>Good Faith Effort to Comply Total Adjustments</b> |  |                                   | <b>Subtotal 5</b>              | -\$1,312          |
| <b>Economic Benefit</b>                              | 0.0%   | Enhancement*                      | <b>Subtotal 6</b>              | \$0               |
| Total EB Amounts                                     | \$23   | *Capped at the Total EB \$ Amount |                                |                   |
| Estimated Cost of Compliance                         | \$950  |                                   |                                |                   |

|                             |                       |          |
|-----------------------------|-----------------------|----------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$12,188 |
|-----------------------------|-----------------------|----------|

|   |      |                   |     |
|---|------|-------------------|-----|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0.0% | <b>Adjustment</b> | \$0 |
|---|------|-------------------|-----|

Reduces or enhances the Final Subtotal by the indicated percentage.

|       |  |                             |          |
|-------|--|-----------------------------|----------|
| Notes |  | <b>Final Penalty Amount</b> | \$12,188 |
|-------|--|-----------------------------|----------|

|                                   |                               |          |
|-----------------------------------|-------------------------------|----------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$12,188 |
|-----------------------------------|-------------------------------|----------|

|                 |  |           |                   |     |
|-----------------|--|-----------|-------------------|-----|
| <b>DEFERRAL</b> |  | Reduction | <b>Adjustment</b> | \$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. |  |  |
|-------|--|--|--|

|                        |          |
|------------------------|----------|
| <b>PAYABLE PENALTY</b> | \$12,188 |
|------------------------|----------|

Screening Date 24-Jul-2014

Docket No. 2014-1118-PST-E

PCW

Respondent CROSS-COUNTRY COMMERCIALS, INC. dba Cross Country Drive-In

Policy Revision 4 (April 2014)

Case ID No. 49034

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106186844

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Abigail Lindsey

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )  | 0                 | 0%      |
|                               | Other written NOVs   | 0                 | 0%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 0                 | 0%      |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )                               | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0                 | 0%      |
| <i>Please Enter Yes or No</i> |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 0%

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

No

Adjustment Percentage (Subtotal 3) 0%

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

High Performer

Adjustment Percentage (Subtotal 7) -10%

#### >> Compliance History Summary

Compliance History Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% -10%

Screening Date 24-Jul-2014

Docket No. 2014-1118-PST-E

PCW

Respondent CROSS-COUNTRY COMMERCIALS, INC. dba Cross Country Drive

Policy Revision 4 (April 2014)

Case ID No. 49034

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106186844

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 115.245(6) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit the Stage II vapor recovery system test results to the appropriate regional office within ten working days of the completion of the tests. Specifically, test results were not submitted by the due date of May 12, 2014.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          |       |

Percent 0.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               | x     |          |       |

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

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

Violation Base Penalty \$3,750

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$937

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

Notes The Respondent came into compliance on June 20, 2014, prior to the Notice of Enforcement ("NOE") date of July 16, 2014.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,438

This violation Final Assessed Penalty (adjusted for limits) \$2,438

# Economic Benefit Worksheet

**Respondent** CROSS-COUNTRY COMMERCIALS, INC. dba Cross Country Drive-In  
**Case ID No.** 49034  
**Reg. Ent. Reference No.** RN106186844  
**Media Violation No.** 1  
**Media** Petroleum Storage Tank

| 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 | 12-May-2014 | 20-Jun-2014 | 0.11 | \$1 | n/a | \$1 |

**Notes for DELAYED costs**  
 Estimated cost to submit the Stage II vapor recovery test results to the appropriate regional office. The date required is the date the test was due to the Regional Office and the final date is the date of compliance.

### Avoided Costs

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$100

**TOTAL** \$1

Screening Date 24-Jul-2014

Docket No. 2014-1118-PST-E

PCW

Respondent CROSS-COUNTRY COMMERCIALS, INC. dba Cross Country Drive

Policy Revision 4 (April 2014)

Case ID No. 49034

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106186844

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 334.45(c)(3)(A)

Violation Description

Failed to have the emergency shutoff valves securely anchored at the base of the dispenser. Specifically, one of the emergency shutoff valves under dispenser numbers 3 and 4 was not anchored.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       | x        |       |

Percent 15.0%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

34 Number of violation days

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

mark only one with an x

Violation Base Penalty \$3,750

One quarterly event is recommended from the June 20, 2014 investigation to the July 24, 2014 screening date.

Good Faith Efforts to Comply

10.0%

Reduction \$375

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

|               |  |               |
|---------------|--|---------------|
| Extraordinary |  |               |
| Ordinary      |  | x             |
| N/A           |  | (mark with x) |

Notes

The Respondent came into compliance on September 26, 2014, after the NOE date of July 16, 2014.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$9

Violation Final Penalty Total \$3,000

This violation Final Assessed Penalty (adjusted for limits) \$3,000

# Economic Benefit Worksheet

**Respondent** CROSS-COUNTRY COMMERCIALS, INC. dba Cross Country Drive-In  
**Case ID No.** 49034  
**Reg. Ent. Reference No.** RN106186844  
**Media Violation No.** Petroleum Storage Tank  
 2

| 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

| Item Description         | Item Cost | Date Required | Final Date  | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|--------------------------|-----------|---------------|-------------|------|----------------|---------------|-----------|
| Equipment                | \$500     | 20-Jun-2014   | 26-Sep-2014 | 0.27 | \$0            | \$9           | \$9       |
| 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

Estimated cost to securely anchor the emergency shutoff valve (under dispenser numbers 3 and 4). The date required is the investigation date and the final date is the date of compliance.

### Avoided Costs

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

| Item Description              | Item Cost | Date Required | Final Date | Yrs  | Interest Saved | Onetime Costs | EB Amount |
|-------------------------------|-----------|---------------|------------|------|----------------|---------------|-----------|
| Disposal                      |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Personnel                     |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Inspection/Reporting/Sampling |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Supplies/Equipment            |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Financial Assurance [2]       |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| ONE-TIME avoided costs [3]    |           |               |            | 0.00 | \$0            | \$0           | \$0       |
| Other (as needed)             |           |               |            | 0.00 | \$0            | \$0           | \$0       |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

**TOTAL**

\$9

Screening Date 24-Jul-2014

Docket No. 2014-1118-PST-E

PCW

Respondent CROSS-COUNTRY COMMERCIALS, INC. dba Cross Country Drive-I

Policy Revision 4 (April 2014)

Case ID No. 49034

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106186844

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Abigail Lindsey

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 334.45(d)(1)(E)(iii), 334.50(d)(7), and Tex. Water. Code § 26.3475(c)(1)

Violation Description

Failed to monitor the interstice of the secondarily contained underground storage tanks ("USTs"). Specifically, the probes in the USTs and dispenser sumps were improperly installed.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       | Percent |
|-----------|-------|----------|-------|---------|
|           | Major | Moderate | Minor |         |
| Actual    |       |          |       | 30.0%   |
| Potential | x     |          |       |         |

>> Programmatic Matrix

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

Matrix Notes

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

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1 34 Number of violation days

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

mark only one with an x

Violation Base Penalty \$7,500

One quarterly event is recommended from the June 20, 2014 investigation to the July 24, 2014 screening date.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/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 \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$13

Violation Final Penalty Total \$6,750

This violation Final Assessed Penalty (adjusted for limits) \$6,750

# Economic Benefit Worksheet

**Respondent** CROSS-COUNTRY COMMERCIALS, INC. dba Cross Country Drive-In  
**Case ID No.** 49034  
**Reg. Ent. Reference No.** RN106186844  
**Media Violation No.** Petroleum Storage Tank  
 3

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

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

## Delayed Costs

|                          |       |             |             |      |      |     |      |
|--------------------------|-------|-------------|-------------|------|------|-----|------|
| Equipment                |       |             |             | 0.00 | \$0  | \$0 | \$0  |
| Buildings                |       |             |             | 0.00 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |             |             | 0.00 | \$0  | \$0 | \$0  |
| Engineering/Construction |       |             |             | 0.00 | \$0  | \$0 | \$0  |
| Land                     |       |             |             | 0.00 | \$0  | n/a | \$0  |
| Record Keeping System    |       |             |             | 0.00 | \$0  | n/a | \$0  |
| Training/Sampling        |       |             |             | 0.00 | \$0  | n/a | \$0  |
| Remediation/Disposal     |       |             |             | 0.00 | \$0  | n/a | \$0  |
| Permit Costs             |       |             |             | 0.00 | \$0  | n/a | \$0  |
| Other (as needed)        | \$350 | 20-Jun-2014 | 23-Mar-2015 | 0.76 | \$13 | n/a | \$13 |

**Notes for DELAYED costs**  
 Estimated cost to monitor the USTs for releases including installation of liquid sensing probes. 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 | \$350 | <b>TOTAL</b> | \$13 |
|----------------------------|-------|--------------|------|

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 CN603453044, RN106186844, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN603453044, CROSS-COUNTRY COMMERCIALS, INC. **Classification:** HIGH **Rating:** 0.00

**Regulated Entity:** RN106186844, Cross Country Drive-In **Classification:** HIGH **Rating:** 0.00

**Complexity Points:** 3 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 16449 HIGHWAY 124 BEAUMONT, TX 77705-9624, JEFFERSON COUNTY

**TCEQ Region:** REGION 10 - BEAUMONT

**ID Number(s):** **PETROLEUM STORAGE TANK NON REGISTERED** ID NUMBER 83215  
**PETROLEUM STORAGE TANK REGISTRATION** REGISTRATION 83215

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** January 28, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 28, 2010 to January 28, 2015

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

**Name:** Abigail Lindsey

**Phone:** (512) 239-2576

### 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.):**

Item 1 September 15, 2011 (948572)

Item 2 April 17, 2013 (1074206)

#### **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

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CROSS-COUNTRY  
COMMERCIALS, INC. DBA  
CROSS COUNTRY DRIVE-IN;  
RN106186844**

**§  
§  
§  
§  
§  
§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER**

**DOCKET NO. 2014-1118-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding CROSS-COUNTRY COMMERCIALS, INC. d/b/a Cross Country Drive-In ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent together stipulate that:

1. Respondent owns and operates, as defined in 30 TEX. ADMIN. CODE § 334.2(73) and (70), an underground storage tank ("UST") system and a convenience store with retail sales of gasoline located at 16449 Highway 124 in Beaumont, Jefferson County, Texas (ID No. 83215) (the "Station"). The USTs at the Station are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission, and contain or contained a regulated petroleum substance as defined in the rules of the TCEQ. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and Respondent agree that TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, 7.070, and 7.073, and that Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of twelve thousand one hundred eighty-eight dollars (\$12,188.00) is assessed by the Commission in settlement of the violations alleged in Section II. Respondent paid three hundred fifty-eight dollars (\$358.00) of the penalty. The remaining amount of eleven thousand eight hundred thirty dollars (\$11,830.00) shall be paid in thirty-five (35) monthly payments of three hundred thirty-eight dollars (\$338.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until the penalty is paid in full. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately

due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Order and/or the acceleration of any remaining balance constitutes the failure by Respondent to timely and satisfactorily comply with all the terms of this Order.

5. The Executive Director and Respondent agree on a settlement of the matters addressed in this Order, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). 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.
6. 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 Respondent has not complied with one or more of the terms or conditions contained in this Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable, and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon full compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that Respondent implemented the following corrective measures at the Station:
  - a. On June 20, 2014, submitted the passing Stage II vapor recovery test results to the Beaumont Regional Office;
  - b. By September 26, 2014, securely anchored the emergency shutoff valves under dispenser numbered 3 and 4; and
  - c. By March 23, 2015, properly installed the probes in the USTs and dispenser sumps.

## **II. ALLEGATIONS**

1. During an investigation conducted on June 20, 2014, an investigator documented that Respondent:
  - a. Failed to submit the Stage II vapor recovery system test results to the appropriate regional office within ten working days of the completion of the tests, in violation of TEX. HEALTH & SAFETY CODE § 382.085(b) and 30 TEX. ADMIN. CODE § 115.245(6). Specifically, test results were not submitted by the due date of May 12, 2014;
  - b. Failed to have the emergency shutoff valves securely anchored at the base of the dispenser, in violation of 30 TEX. ADMIN. CODE § 334.45(c)(3)(A). Specifically, one of the emergency shutoff valves under dispenser numbered 3 and 4 was not securely anchored; and
  - c. Failed to monitor the interstice of the secondarily contained USTs, in violation of TEX. WATER CODE § 26.3475(c)(1) and 30 TEX. ADMIN. CODE §§ 334.45(d)(1)(E)(iii) and 334.50(d)(7). Specifically, the probes in the USTs and dispenser sumps were improperly installed.

## **III. DENIALS**

Respondent generally denies each Allegation in Section II.

#### IV. ORDERING PROVISIONS

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

1. Respondent is assessed an administrative penalty as set forth in Section I, Paragraph 4. The payment of this penalty and Respondent's compliance with all of the requirements set forth in this Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations which are not raised here. Penalty payments shall be made payable to TCEQ and shall be sent with the notation "Re: CROSS-COUNTRY COMMERCIALS, INC. d/b/a Cross Country Drive-In, Docket No. 2014-1118-PST-E" to:  

Financial Administration Division, Revenue Operations Section  
Texas Commission on Environmental Quality  
Attention: Cashier's Office, MC 214  
P.O. Box 13088  
Austin, Texas 78711-3088
2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
4. 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.
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. This Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order, or (2) pursue violations of a statute within TCEQ's jurisdiction or of a rule adopted or an order or permit issued by the TCEQ under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems

acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

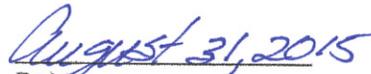
8. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Order is the date it is signed by the Commission or the Executive Director. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

**TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

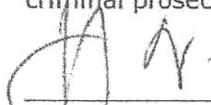
  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 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;
- 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, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature - Hussain A Habib, <sup>Vice</sup> President  
CROSS-COUNTRY COMMERCIALS, INC.  
6373 FM 1442  
Orange, Texas 77630

  
\_\_\_\_\_  
Date

If mailing address has changed, please check this box and provide the new address below:

\_\_\_\_\_